

**GENERAL ASSEMBLY RESOLUTION 2131 (XX) OF 21 DECEMBER 1965  
DECLARATION ON THE INADMISSIBILITY OF INTERVENTION IN THE  
DOMESTIC AFFAIRS OF STATES AND THE PROTECTION OF THEIR  
INDEPENDENCE AND SOVEREIGNTY**

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**1. Resolution 2131 (XX) in its historical (political-legal) context**

General Assembly resolution 2131 (XX) entitled Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty was adopted on 21 December 1965, by a vote of 109 votes to none, with one abstention. In the preamble and its opening paragraph, the resolution cites the “gravity of the international situation and the increasing threat to universal peace due to armed intervention and other direct or indirect forms of interference threatening the sovereign personality and the political independence of States.”

The ties of consanguinity with that earlier historic act of the General Assembly, – the Declaration on the Granting of Independence to Colonial Countries and Peoples, – resolution 1514 (XV) of 14 December 1960, adopted by a vote of 89 to none, with, however, nine abstentions are clear enough (see introductory note on General Assembly resolution 1514 (XV)). After invoking Article 1, paragraph 2, of the Charter of the United Nations and the principles of equal rights and self-determination of peoples as the foundation of “friendly relations among nations”, resolution 2131 (XX) goes on, in its preamble, expressly to cite resolution 1514 (XV) on States’ “inalienable right to complete freedom, the exercise of their sovereignty and the integrity of their national territory and ... [to] freely determine their political status and freely pursue their economic, social and cultural development.”

Resolution 2131 (XX) of 1965, in historical terms, reflects the remarkable acceleration of the decolonization process in the few years since the adoption of resolution 1514 (XV). Eighteen new States, all but one of these (Mongolia) “colonies” in the classical international law sense, had been admitted to the United Nations in the meantime. With their new numbers, the informal coalitions or associations of the neutral States had taken on an extra political coherence and certainly tactical and often strategical legal sophistication. These coalitions, sometimes already existing and sometimes new, included the Organization of American States, the League of Arab States, and the Organization of African Unity as formal organizations. Even more effective politically, perhaps, since they were open always to further accretions to their ranks, were rather more informal arrangements such as the Bandung Conference, the Group of 77, and the Non-Aligned Countries as such. In some ways in politically realistic reaction to all this, the two political and military superpowers, the Soviet Union and the United States, and their supporting blocs from the Cold War era, had entered into their own era of peaceful coexistence which would progressively ripen into a highly pragmatic, problem-oriented East-West *détente* based on mutuality and reciprocity of interest in concrete areas like peace and security, nuclear testing and armaments control, in ways not always coinciding with the policy imperatives of the emerging third world majorities in the United Nations and other international arenas.

The accommodation or compromising of these contradictions in legal terms can be found – behind the displays of unanimous voting on the formal accords – in the arts of diplomatic-legal drafting: the resort to succinct, lapidarian formulations that facilitate normative ambiguity as to their later interpretation or concrete application, and also the inclusion of “saving” clauses, usually at the tail-end of the formal declarations themselves. On the part of the neutral, non-aligned States who constituted the moving, pro-active elements in support of resolution 2131 (XX), there would have to be some consensus, nonetheless, as to the future application in concrete cases of the highly abstract principles contained in the text. One such area of concern would certainly be the well-evidenced practice of unilateral intervention, by armed force. A not less serious and more general concern would stem from modes of intervention other than military, of a financial or economic character not yet adequately defined in or fully reached by positive law – economic and financial coercion or extreme trade pressures or boycotts, and also covert, or sometimes direct and open, encouragement or incitement for dissident, political breakaway groups in a particular State or region.

## **2. Legislative drafting and negotiation within the General Assembly**

The proposal for the resolution was launched by the Soviet Union in a letter to the President of the General Assembly on 24 September 1965, and was followed up with a Soviet draft resolution submitted to the First Committee, at the twentieth session of the General Assembly on 3 December 1965. The Soviet initiative was then immediately responded to by the United States with its own list of amendments, and then by the United Kingdom. The politically decisive initiatives, however, are to be found in a joint draft resolution tabled by Egypt on behalf of twenty-six Member States, followed by another joint draft resolution tabled by Colombia on behalf of eighteen Member States, with India joining in. Within an extraordinarily rapid sequence of eighteen days, from the first tabling of the Soviet draft resolution and the examination and disposal of proposals for amendment, resolution 2131 (XX) was adopted by the General Assembly. The brevity and succinctness of its verbal formulation, as a factor in inducing a consensus has already been commented on. There is enough generality in the text, in the adumbration of highly abstract primary principles at the expense of detailed secondary principles and rules, to allow for some give-and-take in concrete application in future cases, with the built in final safety valve in paragraph 8 which expressly safeguards Chapters VI, VII and VIII of the Charter of the United Nations relating to the maintenance of international peace and security, but without offering any factual indicia for their application in any future conflict situations.

## **3. Core legal postulates of resolution 2131 (XX)**

In the core legal principles adumbrated in the text of resolution 2131 (XX), there is apparent operational synthesis between two historically different, but presently converging, streams of legal doctrinal thinking, namely, between the legal imperatives of the contemporary post-decolonization succession States, of the late 1950s and the early 1960s, and the older (late nineteenth and early twentieth centuries) classical legal doctrines of the Latin American States – technically refined under the rubric of the Calvo and Drago doctrines – which, in their own origins, had also been products of decolonisation and independence, a full century and a quarter earlier. It should be recalled that, already at the founding conference of the United Nations at San Francisco in 1945, as a result of their common historical experiences, Latin American delegates presented a common front which became the driving force leading up to the adoption of Article 2, paragraph 7, of the Charter, prohibiting interventions by the United Nations in matters essentially within the domestic jurisdiction of any State. Article 2, paragraph 7, of the Charter of the United

Nations thus became the master-clause, in legal terms, on non-intervention as imperative legal principle of contemporary international law, though containing its own in-built antimony that it should not prejudice the application of enforcement measures under Chapter VII of the Charter.

Of particular note are the following paragraphs of resolution 2131 (XX):

“1. No State has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are condemned.

2. No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights or to secure from it advantages of any kind. Also, no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist, or armed activities directed towards the violent overthrow of the regime of another State, or interfere in civil strife in another State.

3. The use of force to deprive peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention.

[...]

5. Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State.

6. All States shall respect the right of self-determination and independence of peoples and nations, to be freely expressed without any foreign pressure, and with absolute respect for human rights and fundamental freedoms. Consequently, all States shall contribute to the complete elimination of racial discrimination and colonialism in all its forms and manifestations.”

Paragraph 7 stipulates that the term “State” covers “both individual States and groups of States”, presumably as an admonition addressed principally to would-be intervenor (military and/or economic) States, whether acting unilaterally or in concert.

#### **4. Contribution of Resolution 2131 (XX) to the Elaboration of “New” International Law Thinking and Rules on the Non-Use of Force and on Non-Intervention**

It was already clear from the first tabling of the draft that was to become resolution 2131 (XX), at the beginning of December 1965, and its fast-track adoption by the General Assembly a scant eighteen days later by unanimous vote, that the political and legal battle on behalf of decolonization and independence was already won, and that what would be involved from now on would be a political and diplomatic cleaning-up process, with attendant pressures to ensure complete effectuation with all deliberate speed of the process of decolonization.

Among the more spectacular successes of this post-resolution 2131 (XX) operation was the achievement of decolonization and independence for the former German colony of South West Africa that had been converted into a League of Nations Mandated Territory under the terms of the 1919 Treaty of Versailles after World War I, but entrusted to the then white-minority ruled Union of South Africa by the League of Nations.

With colonialism on the way out and increasingly a matter of past history, the principle of non-intervention as contained in resolution 2131 (XX) began nonetheless to take on a life of its own and to operate in new directions.

In 1979, the General Assembly decided to include an item entitled “The situation in Kampuchea” in its agenda, with a view to address, *inter alia*, the issue of Viet Nam’s intervention in the country, in December 1978, and remained seized of the matter until 1989, when Viet Nam withdrew its troops. Throughout that period, the General Assembly consistently called for immediate withdrawal of all foreign forces from Kampuchea, with reference to the non-intervention and non-interference principles, but without explicit reference to resolution 2131 (XX).

In the mid-1980s, the International Court of Justice, seized of the issue by the Nicaraguan Government which had complained of active military, logistical and other support by the United States to *Contras* rebel groups within Nicaraguan territories and to other actions including the United States’ mining of Nicaraguan ports and coastal waters, referred in its Judgement, *inter alia*, to resolution 2131 (XX) (*Military and Paramilitary Activities in and Against Nicaragua*, I.C.J. Reports, 1986, p. 107, para. 203).

The new life of resolution 2131 (XX) as part of a general scientific and legal re-examination and restatement, in more contemporary terms than the old classical international law, of the right to self-determination, political and economic, free from unilateral interventions or threats thereof by other States or groups of States was perhaps demonstrated in the political aftermath to the NATO armed intervention against the former Yugoslavia in early 1999, without any prior enabling legal resolution from the Security Council.

To respond to the continuing legal debate as to the licitness, in international law terms, of the NATO operation against the former Yugoslavia in 1999, the Institut de Droit international established in the same year a special commission (later reconstituted as a quadripartite entity with four separate sub-commissions) to report on contemporary legal issues involving self-defence, humanitarian intervention, military intervention by invitation and authorization of the use of force by the United Nations. While the Institut de Droit international has not to date issued any final legal conclusions and recommendations, its initiative from 1999 onwards to achieve a contemporary updating or restatement of the international law on the interdiction of the use of force under Chapter VII of the Charter of the United Nations and on non-intervention had produced one very clear result at least, eight years later. At its 2007 session, the President of the Institut de Droit international noted that it had been unable to agree to accepting “the lawfulness of military actions which have not been authorised by the United Nations but which purport to have been taken to end genocide, large-scale crimes against humanity, or large scale crimes” (*Annuaire de l’Institut de Droit international*, vol. 72, session de Santiago du Chili, 2007, pp. 365-366).

In a separate development, the African Union has recognized a role for international protection of humanitarian interests within individual States (Chapter VIII of the Charter of the United Nations). In fact, article 4 of the Constitutive Act of the African Union of 11 July 2000 expressly establishes the right of the organization to intervene in any of its own member States pursuant to a decision of the Assembly of the African Union in respect of grave circumstances – war crimes, genocide, and crimes against humanity. As was noted by Mr. Abdulqawi A. Yusuf, in the debates of the Institut de Droit international in 2007, such a development at the regional level, is particularly encouraging for the future, since it is now occurring in Africa – “a continent which had always been one of the most vociferous critics of humanitarian intervention due to the abuses associated with it in the past.”

## **Related Material**

### ***A. Legal Instruments***

General Assembly resolution 1514 (XV) of 14 December 1960 (Declaration on the Granting of Independence to Colonial Countries and Peoples).

### ***B. Jurisprudence***

International Court of Justice, *Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States), Merits, Judgment of 27 June 1986, I.C.J. Reports, 1986, p. 14.*

### ***C. Doctrine***

Institut de Droit international, *Annuaire de l'Institut de Droit international*, vol. 72, session de Santiago du Chili, 2007.

- at pp. xi-xii: statement by Secretary-General, J. Verhoeven.
- at pp. 365-366: statement by President, F. Orrego Vicuña.
- at p. 274, and pp. 286-288: statements by Professor B. Vukas.
- at pp. 274-277: statement by Dr. A. A. Yusuf.

M. Jamnejad and M. Wood, “The Principle of Non-intervention”, *Leiden Journal of International Law*, vol. 22, 2009, pp. 345-381.

V. Lowe, “The Principle of Non-intervention: Use of Force”, in V. Lowe and C. Warbrick (eds.), *The United Nations and the Principles of International Law: Essays in memory of Michael Akehurst*, London, Routledge, 1994, pp. 66-84.

E. McWhinney, “Declaration on the Granting of Independence to Colonial Countries and Peoples 1960”, United Nations Audiovisual Library of International Law, 2008.

E. McWhinney, *The United Nations and a New World Order for a New Millennium: Self-Determination, State Succession, and Humanitarian Intervention*, The Hague, Kluwer Law International, 2000.

E. McWhinney, “Self-Determination of Peoples and Plural-Ethnic States in Contemporary International Law. Failed States, Nation-building and the Alternative, Federal Option”, Leiden, Martinus Nijhoff Publishers, 2007 (earlier version, *Recueil des cours de l'Académie de droit international de la Haye*, vol. 294, 2002, pp. 167-263).

M. Sahovic, (ed.), *The Application of International Humanitarian Law and Fundamental Human Rights in Armed Conflicts in which Non-State Entities are Parties*, 2003.

A. Zamora R., *Actividades Militares y Paramilitares en y contra Nicaragua (Nicaragua c. Estados Unidos)*, Managua, Fondo Editorial CIRA, 1999.