Lenin, (Just) Wars of National Liberation, and the Soviet Doctrine on the Use of Force

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Abstract

Today, the prohibition of the use of force is universally accepted as a norm of customary international law. Nevertheless, several exceptions are discussed in international law scholarship. One of them, wars of national liberation, originates in Lenin’s socialist war theory and was subsequently maintained by the former Soviet doctrine of international law. Little known in western academia, this Soviet argument of national liberation struggles to be ‘just wars’ is still alive in Russian international law scholarship today, and, therefore, a lasting legacy of Lenin’s theory of wars of national liberation in international legal discourse as developed around the time of the Russian Revolution (even if sometimes ignored) may be conceded.

Keywords
Lenin – wars of national liberation – Soviet doctrine of international law – use of force, prohibition of – just war theory

* Where English translations of Russian works were not available, German translations are cited instead and used as intermediates. These, as well as all ‘direct’ translations from German and Russian into English are the author’s. I would like to thank Bill Bowring, Lauri Mälksoo, and Marija Peran for providing equally helpful comments. My gratitude also goes to Bruno Simma for discussing the topic with me and reading an earlier draft of this article. Any mistakes or inaccuracies are, of course, solely my own.
Introduction: The Standard Account on the Use of Force in International Law Scholarship Today

Today, the prohibition of the use of force is universally accepted as a norm of customary international law and agreed by many as *ius cogens*. Formulated for the first time as a general prohibition in the Kellogg-Briand Pact of 1928, it marks a cornerstone of the United Nations Charter, which in its article 2(4) states that

> [a]ll members shall 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.

But the prohibition of the use of force is not absolute: the UN Charter itself contains two exceptions (plus one against former enemy states that has become obsolete), and two others are commonly discussed as norms of customary international law: enforcement actions of resolutions by the UN Security Council (article 42), self-defence (article 51), humanitarian intervention, and protection of nationals abroad. However, a quick look into one of the standard accounts dealing with the interpretation of the UN Charter, the *Commentary* edited by Bruno Simma and others, will provide the reader with a further exception, namely that of so called wars of national liberation:

The former Soviet doctrine of public international law, supported in this respect by the majority of developing countries, had maintained that there is a further exception to the prohibition of the use of force. Wars of

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3. It is commonly held that article 107 of the UN Charter, according to which ‘nothing in the present Charter shall invalidate or preclude action in relation to any State which during the Second World War has been an enemy of any signatory to the present Charter’, has become obsolete, since all former enemy states are now UN member states, see e.g. Alfred Verdross/Bruno Simma, *Universelles Völkerrecht: Theorie und Praxis* (Berlin: Duncker & Humblot, 3rd edn 1984), para. 106; Antonio Cassese, *International Law in a Divided World* (Oxford: Clarendon Press 1986), 137.
national liberation by peoples under colonial or racist regimes or other forms of alien domination were claimed to be as lawful as the support, including the use of force, given to those peoples by third States.\footnote{Ibid., MN 62 (footnotes omitted).}


Albrecht Randelzhofer and Oliver Dörr, the authors of the just quoted entry of the Commentary for example, regard this Soviet view to be ‘incompatible with the relevant interpretation of Arts. 2(4) and 51 of the Charter’.\footnote{Randelzhofer/Dörr, ‘Art. 2(4)’ 2012 (n. 1), MN 62.}

Yoram Dinstein in War, Aggression and Self-Defence is of the opinion that there is ‘no way to reconcile Article 2(4) with recourse to force […]’, even if the target is a colonial Power.\footnote{Yoram Dinstein, War, Aggression and Self-Defence (Cambridge: Cambridge University Press 2012), paras. 188–194, 249.}

And Louis Henkin in How Nations Behave simply called it ‘surely a distortion’.\footnote{Louis Henkin, How Nations Behave: Law and Foreign Policy (New York: Columbia University Press 1979), 144.}

Nevertheless, one may also find reaffirmations for an exception to the prohibition of the use of force in wars of national liberation in western international law scholarship up to today. One proponent of this view is Noelle Higgins, author of the Oxford Bibliography on the topic,\footnote{Noelle Higgins, ‘International Law and Wars of National Liberation’, Oxford Bibliographies (online edn).} as well as of Regulating the Use of Force in Wars of National Liberation,\footnote{Noelle Higgins, Regulating the Use of Force in Wars of National Liberation: The Need for a New Regime (Leiden: Martinus Nijhoff Publishers 2010).} the only substantial contribution to the issue since Heather Wilson’s 1988 monograph International Law...
and the Use of Force by National Liberation Movements. In her book, Higgins skips (apparently on purpose) the entire Soviet literature on the topic and bases her argument instead on the originally religious concept of ‘just war’ (bellum iustum). Quoting from another passage in the ‘Commentary’ of the UN Charter, she states:

Article 1(1) refers to the maintenance of international peace and security as the overarching purpose of the United Nations, whereas the suppression of aggression is only referred to as one objective to be achieved through measures of collective security. This means that international peace and security may be endangered not only by acts of aggression, but also by any other threat to the peace.


13 In the Oxford Bibliography on ‘International Law and Wars of National Liberation’ (n. 10), Higgins lists the below-mentioned article by George Ginsburgs (n. 34) and describes it as ‘an interesting discussion of the Soviet perspective on wars of national liberation’. Nevertheless, Lenin’s or any other Soviet contribution to the topic is non-existent in her Regulating the Use of Force in Wars of National Liberation 2010 (n. 11).

14 Higgins, Regulating the Use of Force in Wars of National Liberation 2010 (n. 11), 8–17. The origins of the just war theory go back to antiquity. Cicero, for example, stated already in his De Officiis, 1, 36, 15: ‘No war is just, unless it is entered upon after an official demand for satisfaction has been submitted, or warning has been given and a formal declaration made’. However, it remained to early Christianity to give material content to it. In order to separate those wars that must be suffered because they are ordained by providence and those that are to be avoided, the idea of the just war was born, for which Augustine of Hippo is credited for having first shaped it into the form of a scientific system (see his De Civitate Dei, Liber xix, Caput vii). The single most influential work on the concept of just war is probably the Summa Theologica by Thomas Aquinas, in which the greatest moralist of the Middle Ages reduced the principles underpinning the Christian approach to the just war to three main fundamental rules: First, a just war must be waged under a proper authority of a prince as the responsible leader of a nation (auctoritas principis). Second, a just war must occur for a good and just cause rather than the pursuit of wealth or power (iusta causa). And third, the belligerents must be animated by the right intention, namely, to promote good and subdue evil (intentio bellantium recta), Thomas Aquinas, Summa Theologica, Editio Nova (1868), Secunda Secundae, Questio xi, Articulus 1. For a detailed overview of the origins and development of the concept see Joachim von Elbe, ‘The Evolution of the Concept of the Just War in International Law’, American Journal of International Law 33 (1939), 665–688.

An example of a threat to the peace in that sense, Higgins asserts, could be a violation of the right to self-determination of peoples in national liberation struggles. She concludes: ‘It could therefore be argued that the use of force to counteract threats to international peace may be seen to be an example of the Just War as it has, as its ultimate objective, the attainment of peace’.16

Leaving the actual persuasiveness of such a claim aside, this article takes a different route and looks at the distinct Soviet/Russian argument of ‘just war’ applied to wars of national liberation. In order to do so, the doctrine’s origins will be traced back to a socialist war theory as developed around the time of the Russian Revolution by its leader and mastermind, Vladimir Ilyich Ulyanov, better known as Lenin. Thereupon, an outline of the Soviet Union’s doctrine with regard to the use of force in wars of national liberation follows by examining the relevant Soviet state practice in the negotiations of two important UN General Assembly resolutions adopted in the 1970s, namely the ‘Friendly Relations Declaration’17 of 1970 and the ‘Definition of Aggression’18 of 1974. In addition, a portrayal of the corresponding view in post-World War II Soviet international law scholarship in favour of an exception to the prohibition of the use of force will help to complete the picture. By way of conclusion, the doctrine’s lasting legacy in today’s Russian international law scholarship with regard to the use of force in wars of national liberation is discussed. In doing so, this contribution focuses solely on the Soviet doctrine’s impact with regard to the *ius ad bellum* dimension of the concept of wars of national liberation, while questions arising in connection with the constraint on the conduct of hostilities, the *ius in bello*, are left aside.19

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16 Ibid.
18 Definition of Aggression, UN GA Res 3314 (XXIX), 14 December 1974 (A/RES/3314 (XXIX)).
Lenin’s Socialist War Theory with Regard to Wars of National Liberation

War, according to Lenin and in line with the famous dictum by Carl von Clausewitz, is the continuation of politics by other means. But unlike the nineteenth century Prussian general and military theorist in his unfinished magnum opus On War, Lenin further insisted that all politics are regulated by class struggle, and, therefore, his definition of war may be more accurately paraphrased with the words of Boris Meissner, the leading figure of the Ostrecht school in Cold War Germany: ‘In this sense war is for Lenin the continuation, the instrument of politics of a particular class to achieve certain economic and political goals of this class by violent means’. According to Meissner, Lenin distinguished three main categories of war: imperialistic wars, proletarian wars, and wars of national liberation. In order to grasp what he understood under the latter notion, one has to look into the two key texts in which Lenin laid out his socialist war theory, written around the time of the Russian Revolution. In Socialism and War from 1915, under the heading ‘The Difference between Wars of Aggression and of Defence’, Lenin makes the following statement:

The period of 1789–1871 left behind it deep marks and revolutionary memories. There could be no development of proletarian struggle for socialism prior to the overthrow of feudalism, absolution and alien oppression. When, in speaking of the wars of such periods, socialists stressed the legitimacy of ‘defensive’ wars, they always had these aims in mind, namely revolution against medievalism and serfdom. By a ‘defensive’ war socialists have always understood a ‘just’ war in this particular sense (Wilhelm Liebknecht once expressed himself precisely in this way). It is only in this sense that socialists have always regarded wars ‘for the defence of the fatherland’, or ‘defensive’ wars, as legitimate, progressive and just. For example, if tomorrow, Morocco were to declare war on France, or India on Britain, or Persia or China on Russia, and so on, these would be ‘just’, and ‘defensive’ wars, irrespective of who would be first

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21 Boris Meissner, Die sowjetische Stellung zum Krieg und zur Intervention (Bern: Verlag soi 1978), 3.
22 Ibid., 5.
to attack; and every socialist would wish the oppressed, dependent, and unequal states victory over the oppressor, slave-holding, and predatory 'Great' Powers.23

The socialists' role in this struggle for liberation of these 'oppressed, dependent, and unequal states' is further outlined by Lenin in The Military Programme of the Proletarian Revolution, first published in 1917:

Firstly, socialists have never been, nor can they ever be, opposed to revolutionary wars. The bourgeoisie of the imperialist 'Great' Powers has become thoroughly reactionary, and the war this bourgeoisie is now waging we regard as a reactionary, slave-owners' and criminal war. But what about a war against this bourgeoisie? A war, for instance, waged by peoples oppressed by and dependent upon this bourgeoisie, or by colonial peoples, for liberation? [...] To deny all possibility of national wars under imperialism is wrong in theory, obviously mistaken historically, and tantamount to European chauvinism in practice: we who belong to nations that oppress hundreds of millions in Europe, Africa, Asia, etc., are invited to tell the oppressed peoples that it is 'impossible' for them to wage war against 'our' nations?24

Therefore, secondly, civil wars would be 'the natural, and under certain conditions inevitable, continuation, development and intensification of the class struggle'.25 Thirdly, 'the victory of socialism in one country does not at one stroke eliminate all wars in general. On the contrary, it presupposes wars.'26 He concludes:

The development of capitalism proceeds extremely unevenly in different countries. It cannot be otherwise under commodity production. From

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25 Ibid., 78.

26 Ibid., 79.
this it follows irrefutably that socialism cannot achieve victory simultaneously in all countries. It will achieve victory first in one or several countries, while the others will for some time remain bourgeois or pre-bourgeois. This is bound to create not only friction, but a direct attempt on the part of the bourgeoisie of other countries to crush the socialist state’s victorious proletariat. In such cases, a war on our part would be a legitimate and just war. It would be a war for socialism, for the liberation of other nations from the bourgeoisie.27

With this distinction between ‘just’ and ‘unjust’ wars in Socialism and War and The Military Programme of the Proletarian Revolution, Lenin is sometimes said to have tried to revive the originally religious concept of ‘just war’.28 Of course, such an assessment seems quite bold considering Lenin’s well-known atheism and general lack of interest in ethically based notions of justice, not to mention the assertion by his contemporary Mikhail Taube, that western just war doctrine tradition was unknown to Russia due to her distinct Byzantine legacy.29 An assessment of such a claim – entailing Russia’s civilizational otherness from western Europe during the Middle Ages due to Byzantine influence up until Peter the Great, or, in the words of Taube, of orthodox eastern Europe representing a separate ‘historical type of international law’30 – is beyond the scope of this article.31 And for the present purpose it is also not necessary, since the argument here is not to suggest a sort of continuation

27 Ibid. (emphasis added).
29 Mikhail Taube, ‘Études sur le développement historique du droit international dans l’Europe Orientale’, Recueil des Cours de l’Académie de la Haye en ligne 11 (1928), 345–533, 366–367. According to Lauri Mäksoo, Taube, formerly chair of international law at Saint Petersburg Imperial University, dedicated himself to the study of history of international law in Russia and Byzantium after he was forced to emigrate when the Bolsheviks came to power ‘as if to conduct deeper historical excavations and better to understand the perspective on what had happened in Russia in 1917, and what the historical root causes of the Bolshevik revolution might have been’, Lauri Mäksoo, Russian Approaches to International Law (Oxford: Oxford University Press 2015), 47.
30 Taube, ‘Études sur le développement historique du droit international dans l’Europe Orientale’ 1928 (n. 29), 349.
31 For a broader description of this claim see Mäksoo, Russian Approaches to International Law 2015 (n. 29), 39–51, as well as his earlier article on ‘The History of International Legal Theory in Russia: A Civilizational Dialogue with Europe’, European Journal of International Law 19 (2008), 211–232, 216–225.
of the classical *bellum iustum* (specific for western Europe or not) in Lenin’s thinking with regard to wars of national liberation, but to draw the attention to some interesting similarities between the two. Above all, with Lenin picking up on the terminology of ‘just’ and ‘unjust’ wars in *Socialism and War* and *The Military Programme of the Proletarian Revolution*, the distinctive feature of what makes a war ‘just’ is that of ‘defence’ against a perceived wrong, in a way similar to the medieval just war doctrine. Of course, the ‘just cause’ for wars of national liberation is however new (a ‘revolution against medievalism and serfdom’), and scholars at times even drew the conclusion from their reading of the quoted passages in *The Military Programme* with regard to the socialists’ role in the struggle for liberation of ‘oppressed, dependent, and unequal states’, that according to Lenin, every anti-imperialistic war that brings humankind closer to the historical higher stage of communism is just. But again, this is rather a similarity than a peculiarity compared to the classical doctrine(s) of *bellum iustum* purported over time, since the subjectiveness of what makes a war ‘just’ marks the intrinsic weakness of any just war theory, and it is this proneness to abuse rather than the decline of theocracy or the rise of the modern state that led to the doctrine’s gradually decreasing popularity starting with the writings of the ‘founders of international law’ from the sixteenth century onwards.

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32 By ascribing the equation of ‘defensive’ wars with ‘just’ wars to Karl Liebknecht (see n. 23 above), and being himself a lawyer by profession and a former law student (he obtained his degree externally from the Saint Petersburg Imperial University in 1890 after being expelled from Kazan Imperial University in 1887), it seems quite probable that Lenin intentionally referred to the concept by using the terminology of ‘just’ and ‘unjust’ in order to corroborate his socialist war theory. For biographical information about this stage in Lenin’s life see e.g. Louis Fischer, *The Life of Lenin* (London: Weidenfeld and Nicolson 1964), 18–21; Robert Service, *Lenin: A Biography* (London: Macmillan 2000), 61–94; Christopher Read, *Lenin: A Revolutionary Life* (London: Routledge 2005), 16–19.

33 Cf. the examples provided by Josef Kunz, ‘Bellum Justum and Bellum Legale’, *American Journal of International Law* 45 (1951), 528–534; 530: ‘Thus Victoria: “Unica est et sola causa justa inferendi bellum injuria accepta”; Grotius: “Causa justi belli suscipiendi nulla alia esse potest nisi injuria”’.


35 Vitoria, Gentili, and Grotius made attempts to secularize the just war theory by trying to separate legal aspects of war on the one hand from theological and ethical aspects on the other, but ultimately struggled with the determination of ‘objective’ just causes. See Francisco de Vitoria, *De Indis et de Jure Belli Relectiones* (1532), Part 3, para. 30, who still
Soviet State Practice in the General Assembly in the 1960s and 1970s

While Lenin’s concept of wars of national liberation played no significant role in the subsequent Stalin era, it was given renewed emphasis during Nikita Khrushchev’s time as First Secretary of the Central Committee of the Communist Party of the Soviet Union from 1953 to 1964. At the 1960 International Meeting of Communist and Workers Parties in Moscow for example, Khrushchev reaffirmed that wars of national liberation were just wars, which the Soviet Union supported. The statement issued at the end of the conference predicted a ‘new stage’ in the crisis of capitalism arising from ‘national-liberation struggle and the mounting disintegration of the colonial system’.

claimed that, even though (objectively) war could be just only on one side, it was possible that the other party acted in good faith under ‘invincible ignorance’, and in such cases (subjectively) war was just from the latter’s perspective as well. Cf. Hugo Grotius, *De Jure Belli ac Pacis* (1625), vol. 2, Ch. XXIII, para. XI (5), who argued: ‘If we construe the Word Just, as it respects some Effects of Right, it is plain that War in this Sense may be on both Sides just’. Countless numbers of just causes were proposed by various scholars at the close of the Middle Ages and thereafter, culminating in divergent lists of circumstances when a war could be claimed to be just. For a discussion of these ‘just causes’ see e.g. Dinstein, *War, Aggression and Self-Defence* 2011 (n. 8), paras. 176–183. Dinstein ends his discussion with two telling quotes of the time: ‘States continued to use the rhetoric of justice when they went to war, but the justification proceeded no legal reverberations. Most international law scholars conceded openly that “[w]ith the inherent rightfulness of war international law has nothing to do”. Or, in the acerbic words of T. J. Lawrence, distinctions between just and unjust causes of war “belong to morality and theology, and are as much out of place in a treatise on International Law as would be a discussion on the ethics of marriage in a book on the law of personal status”’ (references omitted).


However, it remained to Leonid Brezhnev’s leadership (1964–1982) under which the most substantial Soviet contributions with regard to the development of the doctrine were accomplished. Brezhnev himself was in strong support of the national liberation movements and called their recourse to arms a ‘sacred right’. Addressing the UN General Assembly in 1960, he stated:

We welcome the sacred struggle of the colonial peoples for their liberation. [...] Moral, material and other assistance must be given so that the sacred and just struggle of the peoples for their independence can be brought to its conclusion.

During his reign, a first attempt to codify the view that the use of force against colonial powers was in line with existing international law was made in the 1966 UN special committee on principles of international law concerning friendly relations and co-operation among states, whose final outcome resulted in the adoption of the Friendly Relations Declaration of 1970. During the work of the committee, the Soviet Union supported the view that the use of force against colonial powers was in accordance with article 51 of the UN Charter (a position that was later abandoned and replaced by an independent right to revolt, see the following paragraphs). USSR delegate Mendelevich for example argued in favour of such a right of self-defence when he referred to the historical development of many states from a condition of dependence towards political and economic autarchy. No one today would question the just fight for example of the USA to achieve independence, he went on. Mendelevich concluded that it would therefore be illogical to exclude the right of colonial peoples to use armed force in order to achieve that same condition.

44 Ibid.
While the Soviet Union could not push through such a view in the framework of the first principle annexed to the Friendly Relations Declaration, the prohibition of the use of force,\footnote{While the prohibition of the threat or use of force itself is one of the principles that is dealt with in the Declaration, the final text does not touch on the subject of exceptions of the prohibition due to a lack of consensus amongst the delegates, see Helen Keller, ‘Friendly Relations Declaration (1970)’, in Rüdiger Wolfrum (ed.), \textit{Max Planck Encyclopedia of Public International Law} (online edn), \textit{MN} 14–16. However, final paragraph 5 of ‘The principle of equal rights and self-determination of peoples’ annexed to the Declaration at least states that ‘[e]very State has the duty to refrain from any forcible action which deprives peoples referred to above in the elaboration of the present principle of their right to self-determination and freedom and independence. In their actions against, and resistance to, such forcible action in pursuit of the exercise of their right to self-determination, such peoples are entitled to seek and to receive support in accordance with the purposes and principles of the Charter’.} things were different in the case of the Definition of Aggression as adopted by the General Assembly on 14 December 1974.\footnote{\textit{UN GA Res} 3314 (XXIX), 14 December 1974 (n. 18).} Final article 7 of the Definition reads as follows:

Nothing in this Definition, and in particular article 3, could in any way prejudice the right to self-determination, freedom and independence, as derived from the Charter, of peoples forcibly deprived of that right and referred to in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, particularly peoples under colonial and racist regimes or other forms of alien domination: \textit{nor the right of these peoples to struggle to that end and to seek and receive support, in accordance with the principles of the Charter} and in conformity with the above-mentioned Declaration.\footnote{Ibid., Annex, Article 7 (emphasis added).}

Thus, on first sight, the Definition implies that wars of national liberation might be justified as an exercise of self-defence by ‘peoples forcibly deprived’ of their right to self-determination. While this seems to be a departure from the \textit{UN} Charter, which allows self-help only as an interim measure pending action by the \textit{UN} Security Council, article 7 of the Definition ties the ‘right of these peoples to struggle to that end […] in accordance with the principles of the Charter’. Although no specific references are made, the Definition implicitly refers to the preamble and article 1(2) of the \textit{UN} Charter, calling for respect
of the right to self-determination. It thus suggests that the achievement of self-determination may be more important than the preservation of a potentially unjust peace, as David Glazier puts it in the Max Planck Encyclopaedia of International Law in the relevant entry on wars of national liberation.

In order to retrace how final article 7 came about, a short survey about the various attempts to define aggression in general and a provision with regard to wars of national liberation in particular might illustrate the impact of the Soviet Union’s position on the issue. From the start, the Soviet Union was one of the foremost promoters of a definition of aggression. As early as 1933, the then Soviet Foreign Minister, Maxim Litvinov, presented a first draft of a definition at the Disarmament Conference in Geneva. The committee’s final report praised the Soviet initiative and adopted most of its terms, but was ultimately ‘buried amid the other forgotten papers of the futile Disarmament Conference of 1932–1934’, as Benjamin Ferencz, former chief prosecutor at the Nuremberg Trials and ‘non governmental observer’ at the negotiations for a consensus definition of aggression between 1967 and 1974, has later put it. In 1950, the Soviet Union once more proposed that aggression be defined and a slightly revised draft of its 1933 definition was submitted to the UN General Assembly. In the following years, no substantial progress could be accomplished and it took until 1967 when the General Assembly, once more on the initiative of the Soviet Union, established a third special committee. After seven years of

48 Article 1(2) of the UN Charter reads as follows: ‘The Purposes of the United Nations are: […] To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.


52 Ibid., 704–705.

53 Ibid., 707–708.

54 Need to expedite the drafting of a definition of aggression in light of the present international situation, UN GA Res 2330 (XXII), 18 December 1967 (A/RES/2330 (XXII)). The resolution goes back to a letter by the then Soviet Foreign Minister, Andrei Gromyko, in which he asked the president of the 22nd session of the General Assembly to add an agenda item
intensive debate, the committee was finally able to report that it had reached a consensus definition of the meaning of aggression.\textsuperscript{55}

At the outset of the negotiations, three drafts were submitted: one by a group of non-aligned states, one by a group of western states, and one by the Soviet Union.\textsuperscript{56} With regard to wars of national liberation, only the latter draft\textsuperscript{57} entailed a provision that could eventually lead to a right to use force for dependent peoples in their struggle for self-determination.\textsuperscript{58} The delegate of the United States, a fierce opponent of such a provision and supported by other delegates from the western states, commented on this proposal that such a ‘right to revolt’ would be a revival of ‘just wars’,\textsuperscript{59} that would be ‘false, both in law and in politics, and it had never been recognized by the United Nations […] for to do so would seriously jeopardize the primacy of the law’.\textsuperscript{60} Unimpressed by such criticism, the Soviet Union was in strong support of such an exception:

with that same title, stating: ‘It is well known that the States which are resorting to armed force in violation of the purposes and principles of the United Nations have often, taking advantage of the absence of a generally accepted concept of aggression, sought to make use of various artificial pretexts and unfounded reservations in order to cover up and justify their aggressive actions against peace-loving states. A definition of the concept of aggression would contribute greatly to the maintenance of international peace and the adoption of effective measures to prevent aggression’, A/6833, 2.


\textsuperscript{55} A/AC. 134/L.16 and Add. 1 and 2, A/AC. 134/L.17 and Add. 1 and 3, and A/AC. 134/L. 12, all printed in Bruha, \textit{Aggression} 1980 (n. 55), 331–335. For a short comparison of the drafts with regard to final article 7 see ibid., 136–144.

\textsuperscript{56} Para. 6 of the draft read as follows: ‘Nothing in the foregoing shall prevent the use of armed force in accordance with the Charter of the United Nations, including its use by dependent peoples in order to exercise their right of self-determination in accordance with General Assembly resolution 1514 (XV)’.

\textsuperscript{57} Although para. 10 of the draft by the non-aligned states did entail a provision with regard to self-determination, it did not explicitly state which means were allowed in order to exercise this right. However, if one reads the protocols of the negotiations carefully, there remains no doubt that the representatives of the non-aligned states were also in favour of the use of force to be lawful in order to exercise the right to self-determination, even going beyond the Soviet draft by arguing not only for dependent peoples in colonial situations to have such a right, but for all oppressed peoples, cf. Bruha, \textit{Aggression} 1980 (n. 55), 180–181, 184 and sources cited therein.

\textsuperscript{58} A/AC. 134/SR. 67, 10–11.

\textsuperscript{59} A/AC. 134/SR. 73, 98–99.
The definition of aggression should include, [...] a provision making an exception where the use of force was necessary to ensure the exercise of the right of peoples to self-determination. [...] It would be a safeguard as necessary and important as the safeguard in Article 51 of the Charter concerning the right to self-defense or the safeguard concerning the use of force pursuant to a decision or authorization of a competent United Nations' body.61

The paramount argument for such a claim was that colonialism was a permanent armed attack against which military force was an innate right of dependent peoples.62 Therefore, national wars of liberation were asserted to be no 'acts of internal aggression' and the use of force a legitimate reaction.63 In doing so, 'rather than running the risk of enlarging the scope of article 51, [...] it was argued that a right to revolt existed independently of other legal rights. This right was either seen as a primordial right or as a right which was intertwined with the right of self-determination'.64 After having adopted the Friendly Relations Declaration the year before (and here, in particular final paragraph 5 of 'The principle of equal rights and self-determination of peoples', see n. 45), the western states had to accept that it had become hard to avoid the topic in the negotiations of a definition of aggression entirely, and in 1971 the working group finally reported its recommendation to use the relevant provisions in the drafts by the Soviet Union and the non-aligned states for a basis of discussion.65 Although the Soviet Union was ultimately not successful in including an explicit right 'to use force', but only 'to struggle',66 final article 7 and the definition as a whole was nevertheless celebrated as a great success by Soviet academics and state representatives alike.67

62 A/AC. 134/SR. 39, 121 et seq.
63 Ibid., 122.
64 Gorelick, 'Wars of National Liberation: Jus Ad Bellum' 1979 (n. 39), 81.
66 For a discussion of the actual persuasiveness of the argument that this linguistic attenuation consequently means 'to fight peacefully' see Bruha, Aggression 1980 (n. 55), 193–194.
67 Valerii Kuznetsov, 'Definition of Aggression: A Triumph for the Peaceful Forces', International Affairs 21 (1975), 29; USSR, A/AC. 134/SR. 113. See also USSR, A/C.6/SR.1472, where the Soviet representative claimed at 2 that the definition 'accomplished its main purpose of depriving a potential aggressor of the possibility of using juridical loopholes and pretexts to unleash aggression'. Diametrical opposite analyses were offered in contemporary
Post-World War II Soviet International Law Scholarship on Wars of National Liberation

After World War II, Lenin's socialist war theory was also endorsed in Soviet international law scholarship, now with the assertion that it was an element of international law. War was usually defined with the Clausewitz formula, with Lenin often also given credit for it. The 'official' 1957 international law western literature, see e.g. Albrecht Randelzhofer, 'Die Aggressionsdefinition der Vereinten Nationen,' *Europa-Archiv* 20 (1975), 621–632, and Julius Stone, 'Hopes and Loopholes in the 1974 Definition of Aggression,' *American Journal of International Law* 71 (1977), 224–246 (asserting at the outset and in reply to the above cited claim by the Soviet representative that '[t]his is so far from the realities disclosed by an examination of the definition that that remarkable text rather appears to have codified into itself (and in some respects extended) all the main "juridical loopholes and pretexts to unleash" aggression available under preexisting international law, as modified by the UN Charter').

According to Evgeny Korovin, the leading Soviet international law scholar in the 1920s, the distinction between just and unjust wars was only of ideological, and not of legal significance, Evgeny Korovin, *Современное международное публичное право* [Modern Public International Law] (Moscow: Gosjurizdat 1926), 142. Having survived the Great Purge, he changed his mind in 1944 and called the distinction to be the 'sole scientific classification', Evgeny Korovin, *Краткий курс международного права. Часть II: право войны* [Short Course in International Law. Part II: The Law of War] (Moscow: Gosjurizdat 1944), 6–7.

It 'seems settled' that the just war theory was not positive law at the time of Lenin and long before, as Josef Kunz maintained in an editorial comment of the *American Journal of International Law* in 1951, where he outlined other attempts from various sides to revive the just war doctrine around the time of World War I by Hans Kelsen and others, 'often coupled with the further assertion that recent developments in international organization constitute a return to this doctrine', Kunz, 'Bellum Justum and Bellum Legale' 1951 (n. 33), 528–529. While not everyone agrees with that assessment (see the short discussion at the end of this article), it has become the predominant view in contemporary international law scholarship, see e.g. Dinstein, *War, Aggression and Self-Defence* 2011 (n. 35), 70: 'Basically, J. L. Kunz was right in stating that the concept of bellum justum has been replaced by that of bellum legale: what counts is a breach of the norms of existing international law, rather than "the intrinsic injustice of the cause of war". For a discussion if the just war doctrine was ever a norm of positive international law see Arthur Meissner, *Die sowjetische Stellung zum Krieg* 1978 (n. 21), 19.

Fedor Kozhevnikov (ed.), *Международноеправо* [International Law] (Moscow: Gosjurizdat 1957). The textbook was the third (and the last) in the line of collectively prepared treatises under the auspices of the Legal Institute of the Soviet Academy of Science. Because these texts had been approved for use in Soviet law faculties, they were
Lenin, (Just) Wars of National Liberation, & the Soviet Doctrine


There are just and unjust wars. The just war is not a conquest war but a war of liberation. Its purpose is to defend the peoples against external attacks and attempts of enslavement. Just wars include defense wars and wars of national liberation. The entire mankind welcomes such wars and supports the fights for freedom and independence.\footnote{Fedorean Kozhevnikov (ed.), Lothar Schultz (transl.), \textit{Völkerrecht}, Akademie der Wissenschaften der UdSSR, Rechtsinstitut (Hamburg: Hansischer Gildenverlag 1960), 416.}

Russian history would know of many instances in which just wars had to be fought: the French invasion by Napoleon in 1812, the war ‘against the foreign military intervention in the years of 1918–1920’\footnote{What is referred to is the intervention by the allied forces and the pro-German armies in the Russian Civil War, which lasted from 1917 to 1922. While especially the French and Italian governments favoured strong support to the anti-Communist forces at the beginning of the war, direct intervention by allied military forces was on a very small scale, see ‘Russian Civil War’, \textit{Encyclopaedia Britannica} (online edn).} and World War II, the ‘just great patriotic war against German fascism and Japanese imperialism’, where ‘the Soviet people rescued world civilisation from the fascist aggressor with its sacrificing struggle’.\footnote{Kozhevnikov, \textit{Völkerrecht} 1960 (n. 72), 416–417.} An unjust war, on the other hand

is a war of conquest. Its goal is the appropriation and enslavement of foreign countries and foreign nations. Aggressive, imperialist wars count as unjust wars. In such wars, both belligerent parts suppress foreign countries or peoples, by fighting for the division of the spoils, i.e. for the right who is allowed to suppress and rob more.\footnote{Ibid.}

According to the textbook, a good example of an unjust war in that sense was World War I, for its causes are to be found ‘in the contradictions of imperialism’, where one was fighting for the repartition of the world.\footnote{Ibid.} In later years, explicit

(and still are) regarded by many western observers as ‘official’ doctrinal positions. For a discussion of the claim that the Soviet international law doctrine was a monolithic, ‘one and only state-approved’ theory see e.g. Tarja Långström, \textit{Transformation in Russia and International Law} (Leiden: Martinus Nijhoff Publishers 2003), 50–117.
reference to the just war theory became rarer in Soviet international legal scholarship, but did not disappear altogether.\textsuperscript{77}

Whereas post-World War II Soviet international law scholarship promoted a strict prohibition of the use of force, it simultaneously maintained that wars of national liberation by peoples under colonial or racist regimes or other forms of alien domination were lawful as well as the support, including the use of force, given to those peoples by third states.\textsuperscript{78} Although the arguments in favour of this view varied over time depending on the doctrine's development, the predominant position seemed to be that colonialism was considered a permanent armed attack, against which self-defence outside the scope of article 51 of the UN Charter and independently from other legal rights was allowed.\textsuperscript{79}

Grigory Tunkin, head of the legal department of the Soviet Union's foreign ministry from 1957 to 1966, subsequently professor of international law at Moscow University and founder of the Soviet (now Russian) Association of International Law, of which he was president until his death in 1993, was probably the single most influential international law scholar in the Soviet Union.\textsuperscript{80}

\begin{itemize}
  \item \textsuperscript{77} Meissner, \textit{Die sowjetische Stellung zum Krieg} 1978 (n. 21), 20. A typical example in that regard is the contribution of Gleb Starushenko, ‘Abolition of Colonialism and International Law’ in Grigory Tunkin (ed.), \textit{Contemporary International Law} (Moscow: Progress Publishers 1969), 77–96, in which the author at 91 calls wars of national liberation ‘just’ without further elaborating on the concept.
  \item \textsuperscript{79} For a description of the doctrine's evolution see Schroeder, ‘Die Rechtmäßigkeit des Krieges’ 1967 (n. 28), 216–217.
  \item \textsuperscript{80} While heading the Legal Department, Grigory Ivanovich Tunkin (1906–1993) was a member of the United Nations Law Commission, which he presided over in 1961. He led Soviet delegations to the first and second UN Conferences on the Law of the Sea (1958 and 1960), the Antarctic Conference (1959), and the Vienna Conference on Diplomatic Relations.
\end{itemize}
His book *Theory of International Law* (first published in 1962 under the title *Questions on the Theory of International Law*) was one of the very few substantial Soviet textbooks on international law translated into English, and consequently he is also the Soviet scholar best known to the reader in western countries. Towards the end of his career he dedicated a monograph to the use of force with the title *Law and Force in the International System*, which, according to its translator of the German edition, 'sums up once again his theses and develops them further'. Here, Tunkin explicitly reaffirmed that 'modern international law also includes the right of peoples of colonial and dependent countries to proceed to armed force against the metropolitan states, which prevent the respective countries or territories from exercising their right to self-determination'. Such a recourse to armed force would be legitimate self-defence, following 'in general form' from the UN Charter.

Writing in the 1980s, Tunkin was of the view that the right to use force in wars of national liberation was not restricted to colonial situations and, therefore, thought it of continuing relevance. In a separate chapter on 'Support for the fight of the peoples for national liberation and social progress', he asserted that external support to wars of national liberation would be necessary in order to fight 'imperialistic politics' in particular of the United States, which left 'the peoples of these states no free choice in the path of their economic and social development' and which would 'bind them to the chains of neocolonialism to the capitalist world and to prevent their development on the path of socialist orientation'. As a counterweight to this policy, Tunkin concluded, 'the Soviet Union and the other countries of the socialist camp follow a policy...

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85 Ibid., 9.
86 Ibid., 64.
87 Ibid.
88 Ibid., 206.
of defence of the new states against imperialist attacks in accordance with the norms of international law and assist them in the consolidation of their political independence.89

Another prominent representative of post-World War II international law scholarship in the Soviet Union was Igor Blishchenko90 of the Soviet Institute for International Relations. In his 1975 chapter on ‘The use of force in international relations and the role of prohibition of certain weapons’, he stated that it should […] be noted that it remains possible for the use of force, particularly armed force to be legal from the standpoint of international law. In other words, the concept of ‘just’ and ‘unjust’ wars, which […] had only theoretical significance in the Middle Ages, has acquired legal significance in present-day international law as a result of the adoption of the United Nation Charter.91

This seems noteworthy, since Blishchenko thereby claimed the UN Charter to be compatible with, and even an expression of the classical just war doctrine. This would be especially true for wars of national liberation, in which ‘the use of armed force by a people fighting for its freedom in response to the use of force by the metropolitan Power is lawful and legitimate from the standpoint of existing international law’.92 What is interesting here is less the reiteration of the claim that ‘the prohibition of the use or threat of force does not impair the

89 Ibid.
90 Igor Pavlovich Blishchenko (1930–2000) was Professor at the School of Diplomacy and later at the Institute of International Relations, both attached to the Soviet Foreign Ministry, and for the last twenty years of his life Head of the Chair of International Law of the Peoples’ Friendship University of Russia in Moscow. He was a member of the USSR delegation to the 1971 and 1972 International Committee of the Red Cross Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts and to 1974 and 1975 Sessions of the diplomatic conference on the same subject, see the biographical information in Cassese (ed.), Current Problems of International Law 1975 (n. 78), xiii. For an obituary by the International Committee of the Red Cross see International Review of the Red Cross, No. 843, 30 September 2001, available at: https://www.icrc.org/eng/resources/documents/article/other/57jrev.htm.
right of peoples, including the oppressed colonial countries, to fight against aggression and for the elimination of its consequences’, but the argument Blishchenko put forward in favour for such a right, in reply to the criticism the doctrine faced in western international law literature at the time:

A number of jurists in non-socialist countries take the view that to recognize the right of colonial peoples to use force against the colonialists means promoting war. It has been pointed out in reply that it is the colonialists and not the people exercising its right to self-determination who are unleashing the war. The use of force by colonial people has never been regarded as some sort of abstract goal. [...] An authority which systematically violates elementary human rights and freedoms and impedes the development of the peoples it has enslaved cannot be described as lawful, for such conduct is today ipso facto a flagrant violation of international law.

In a later book on international humanitarian law Blishchenko went even beyond the claim that the use of force in support of wars of national liberation is legitimate. Due to the amendment of Protocol I to the Geneva Convention in 1977 he asserted: ‘This means not just another recognition of the legitimacy of the national-liberation movement, but also a duty to assist it in every possible way, including armed assistance, to help dependant peoples exercise their right to self-determination.’

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93 Ibid., 172. Igor Blishchenko made this claim already as early as 1968, see his Антисоветизм и международное право [Antisovietism and International Law] (Moscow: Izdatelstvo IMO 1968), 76–77.
95 Blishchenko, ‘The Use of Force in International Relations and the Role of Prohibition of Certain Weapons’ 1975 (n. 91), 173 (paragraph breaks omitted).
96 Article 1(4) of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, states: ‘The situations referred to in the preceding paragraph include armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist régimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations’.
97 Blishchenko, International Humanitarian Law 1989 (n. 91), 97 (emphasis added).
Even as late as 1989 Rein Müllerson\textsuperscript{98} of the USSR Academy of Science wrote that ‘[v]iolent actions which deprive peoples of their right to self-determination, freedom, and independence constitute a violation of the principle of the non-use of force’.\textsuperscript{99} Therefore, he argued, ‘the national liberation struggle, including an armed one, is legitimate, as is assistance to peoples who wage such struggle’.\textsuperscript{100}

To sum it up, the use of force in ‘just’ wars of national liberation in post-World War II Soviet international law scholarship was perceived – in a manner similar to the classical \textit{bellum iustum} theory of the Middle Ages and in line with Lenin’s original concept of wars of national liberation – as a reaction against a wrong, not an ‘abstract goal’ (Blishchenko), but a necessary ‘counterweight to imperialistic politics’ (Tunkin), and, therefore, to be ‘legitimate’ (Müllerson).

5 Conclusions: The Legacy of Lenin’s Concept in Today’s International Legal Discourse

What originally may or may not be perceived as ‘only’ a moral or ideological weapon forged by a revolutionary leader and his disciples to fight imperialism, one has to admit that Lenin’s concept of wars of national liberation gained legal significance in the 1960s and 1970s through a series of resolutions of the UN General Assembly. In addition to the adoption of the discussed Friendly Relations Declaration and the Definition of Aggression, efforts made by the developing countries – with the support, and in some cases leadership, of the Soviet Union – led to several further General Assembly resolutions in which ‘the legitimacy of the peoples’ struggle for liberation from colonial and foreign domination and alien subjugation by all available means, including

\textsuperscript{98} At the time of writing these lines, Rein Müllerson headed the section of theory of international law at the Institute of Law of the USSR Academy of Science. After the collapse of the Soviet Union, he was briefly Estonia’s deputy foreign minister (1991–1992) and from 1994 to 2009 professor of international law at King’s College, London. Currently he is professor of international law and politics at the University of Tallinn and in 2013 he was elected president of the Institute de Droit International. For more biographical information see his profile page on Tallinn University’s website, available at: https://www.etis.ee/Portal/Persoons/Display/6e367cea-81a4-48f4-a3c3-c6bf44c0eb?tabId=CV_ENG.


\textsuperscript{100} Ibid.
armed struggle’ was reaffirmed. In consequence, at least three issues arise with regard to the question of the doctrine’s continuing relevance in international law.

Firstly, although it is well known that resolutions by the General Assembly outside the ‘housekeeping’ realm of United Nations cannot be legally binding as such, but are mere recommendations under the framework of the UN Charter, General Assembly resolutions play an important role in the identification of customary international law, and indeed at times scholars as well as states have argued for the legally binding nature of some of its so-called ‘declarations’. Up to today, the question remains controversial, as is reflected for example in the ongoing project of the International Law Commission with regard to the identification of customary international law and its critical assessment in academia.

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102 Faundez, ‘International Law and Wars of National Liberation: Use of Force and Intervention’ 1989 (n. 6), 85–98, even went so far as to argue for an ‘authoritative updating of international law’ through the adoption of the various General Assembly resolutions condemning colonialism: ‘Today, the law recognises that the territory of a self-determination unit has a status separate and distinct from that of the State administering it. Therefore, force used by such states is no longer force used in domestic matters and accordingly falls within the scope of Article 2(4), which enjoins all States from using force in their international relations. Conversely, force used by national liberation movements to resist the forcible deprivation of their legally recognised rights does not violate the rule prohibiting the use of force because, insofar as it is used within the territorial boundaries of the self-determination unit, it is within the internal domain of these units’ (at 96). And with regard to military assistance by third states: ‘If the new norms of international law have altered the rules governing intervention in these conflicts and, as a consequence, the position of a national liberation movement is equivalent to that of a government using force to restore order within its own territory, then there is no reason why the liberation movement should be prevented from inviting third States to provide military assistance’ (at 96–97).

103 For a discussion of this claim see Verdross/Simma, Universelles Völkerrecht 1984 (n. 3), paras. 634–635, with numerous sources cited therein.

104 See International Law Commission, Text of the draft conclusions provisionally adopted by the Drafting Committee, A/CN.4/L.869. Its Special Rapporteur Sir Michael Wood noted in his 2014 Report that ‘[i]t was pointed out that an exhaustive review of State practice and opinio juris was exceptional, as more often than not evidence of a rule is first sought
Secondly, the concept of wars of national liberation was primarily developed as an anti-colonial right of suppressed peoples deprived of their right of self-determination against colonial powers, which have become ‘essentially an historic relic’ through the process of decolonisation, as David Glazier puts it in his encyclopaedia entry on the topic mentioned already above.\(^{105}\) With regard to the concept’s lasting significance in the twenty-first century he therefore asserts:

It is thus unlikely that the current century will see additional conflicts qualifying as wars of national liberation, or that either States or international organizations will exert further energy towards clarification or expansion of the law in this area. Ultimately these rules are likely to be perceived as the product of a unique confluence of historical circumstances having little relevance to the current world order.\(^{106}\)

Such an assessment, based on a very narrow understanding of the concept of wars of national liberation, seems a bit rash since a more open formulation was common even in western academia during the Cold War period. In the same book in which Blishchenko contributed the chapter outlined above on the use of force, Natalino Ronzitti defined wars of national liberation as ‘the armed struggle waged by a people through its liberation movement against the established government to reach self-determination’, without limiting it to colonial situations.\(^{107}\) And indeed, it is hard to refute the introductory remark by Noelle Higgins in her monograph on wars of national liberation (entailing


\(^{106}\) Ibid., MN 19.

\(^{107}\) Ronzitti, ‘Resort to Force in Wars of National Liberation’ 1975 (n. 94), 321.
two case studies of the liberation movements of the South Moluccas and Aceh from Indonesia),¹⁰⁸ that while some of the ongoing conflicts that match this broader conception ‘may differ in nature from the “traditional” anti-colonial wars of national liberation of the 1960s and 1970s, the objective of all wars of national liberation, former, recent and current, remains the attainment of self-determination.’¹⁰⁹

Thirdly and notwithstanding moral arguments in support of wars of national liberations to be ‘just’,¹¹⁰ from a legal perspective the point seems much harder to make, as has already been mentioned at the outset of this article (although Blischenko’s earlier quoted assertion that ‘the concept of “just” and “unjust” wars has acquired legal significance in present-day international law as a result of the adoption of the United Nation Charter’ is by no means limited to authors from the former Soviet Union).¹¹¹ Nevertheless, especially in Russian contemporary international law scholarship one may still find implicit and explicit reaffirmations for an exception to the prohibition of the use of force in wars of national liberation. In the 2009 textbook *International Law – A Russian Introduction* for example, edited under the auspices of the Russian Association of International Law by two of the most prominent international

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¹⁰⁸ The case studies are conflicts in the state of Indonesia against Indonesian rule. Because Indonesia was not recognised as a ‘traditional’ colonial, racist or alien regime, it was not considered in the discussions during the Diplomatic Conference of Geneva of 1974–1977 with regard to wars of national liberation, see Higgins, *Regulating the Use of Force in Wars of National Liberation* 2010 (n. 19), 139–228.

¹⁰⁹ Ibid., 1.


law scholars from Russia, Valerii Kuznetsov and Bakhtiar Tuzmukhamedov, and ‘officially approved’ through a foreword by the current Russian Foreign Minister, Sergey Lavrov, one may find the following paragraph:

All States are obliged to refrain from any coercive actions depriving peoples of their right to self-determination. If any State by force obstructs a struggling people from realizing their right to self-determination, this people has the right to resist and has the right to seek support and receive it from other States and international organizations in accordance with the principles and norms of international law.

Similar assertions were made in the 2008 edition of the international law textbook used in one of the Russian grandes écoles, the Diplomatic Academy of the Russian Ministry of Foreign Affairs. These statements are not only dry theory: in an attempt to justify Russian state practice during the Russo-Georgian War of 2008, Tuzmukhamedov stated in the Russian newspaper Nezavisimaisaia Gazeta that ‘it wouldn't hurt to remember’ the ‘domestic’ concept on wars of national liberation, a doctrine that ‘you do not always find in the newest textbooks on international law’, thereby purporting Russia to have legitimately assisted Abkhazians and South Ossetians in a war of national liberation from Georgia when intervening there.

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112 Valerii Ivanovich Kuznetsov (1940–2002) was Head of the Chair of International Law at the Diplomatic Academy in Moscow of the Russian Foreign Ministry from 1987 until his death. He was a member of the International Law Commission, the United Nations Committee for Economic, Social, and Cultural Rights, and the Permanent Court of Arbitration, see the biographical information in Valerii Kuznetsov/Bakhtiar Tuzmukhamedov (eds.), William Butler (ed. and transl.), International Law: A Russian Introduction (Utrecht: Eleven 2009), xxi–xxxi.

113 Bakhtiar Raisovich Tuzmukhamedov was Counsellor of the Court at the Constitutional Court of the Russian Federation as well as professor of international law at the Diplomatic Academy in Moscow of the Russian Foreign Ministry until his appointment as judge of the International Criminal Tribunal for Rwanda in 2009, where he served until its closure at the end of 2015, see the ‘biographical note’ on the website of the Tribunal, available at: http://www.icty.org/x/file/About/Chambers/judges_bios_en/pj_tuzmukhamedov_Bio_en.pdf.

114 Kuznetsov/Tuzmukhamedov (eds.), International Law 2009 (n. 112), 148.


As these examples show, the Soviet argument of national liberation struggles to be ‘just wars’ is still alive in Russian international law scholarship today, and, therefore, a lasting legacy of Lenin’s theory of wars of national liberation in international legal discourse as developed around the time of the Russian Revolution may be conceded. The awareness of the ideological background and the historical origins of this ‘domestic’, i.e. Soviet/Russian approach towards wars of national liberation might not seriously challenge the standard interpretation of the prohibition of the use of force under existing international law, but it can help to contextualise and therefore better understand one aspect of a continuously distinct Russian approach to the field.