Part I

The Legal Framework
Chapter 1

Jus ad Bellum – History and Evolution

1.0 Introduction

In order to address the central issue of this work, i.e. the regulation of the use of force in wars of national liberation, some investigation into the history and evolution of the regulation of the use of force in general is required. The regulation of the use of force under international law has two forms, i.e. limitation on the recourse to the use of force, the *jus ad bellum*, and constraint on the conduct of hostilities, the *jus in bello*. This chapter is not intended to be a complete and comprehensive investigation of all of the developments in the progression of the law on the use of force, as these issues have been well documented and analysed elsewhere. Rather, it is intended to highlight those aspects of the history and evolution of this area of law, and those bodies dealing with this issue, which impact on the law governing the use of force in wars of national liberation. It therefore focuses particularly on the evolution of the *jus ad bellum*, specifically the ‘Just War’ theory, as this is the theory that has been used to justify wars of national liberation, and also on the authority of national liberation movements to resort to the use of force, as this has been, and continues to be, a controversial topic.

Force has been employed for reasons that are many and varied throughout history, with war being more natural an occurrence and phenomenon than peace. However, because of the devastation wrought and destruction caused by it, attempts to limit the use of force are “as old as war itself.” Nevertheless, while it has been accepted that the use of force should be limited, it has also been accepted that in

---


3 See Ahmed M. Rifaat, *International Aggression*, supra note 2, p. 3.