Academic Paper

The Legal and Political Status of the Arms of National Liberation Movements under International Law

An Analytical Study of the Disarmament Question under Foreign Occupation



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Abstract

The Legal and Political Status of the Arms of National Liberation Movements under International Law: An Analytical Study of the Disarmament Question under Foreign Occupation

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The legal and political status of the arms of national liberation movements remains one of the most controversial issues in contemporary international law, particularly in light of increasing calls for the disarmament of resistance movements in situations where foreign occupation persists and the right of peoples to self-determination has not yet been realized. This study examines whether international law establishes a general legal obligation requiring national liberation movements to relinquish their arms before the termination of occupation, and whether such a requirement is supported by international practice.

The study adopts an analytical approach to examine the relevant international legal texts, complemented by a descriptive approach tracing the historical evolution of the international recognition of the right of peoples to resist. It also employs an applied approach through an analysis of the Algerian experience as a practical model illustrating the relationship between armed resistance and political settlement.

The study concludes that international law recognizes the right of peoples under colonial rule and foreign occupation to self-determination and accords national liberation movements a distinct legal status. However, it does not establish a general rule requiring such movements to disarm before the end of occupation. The study further demonstrates that the legitimacy of resistance arms remains subject to the rules of international humanitarian law and that the Algerian experience confirms that the issue of arms was addressed within the framework of the settlement that ended the occupation, rather than as a legal precondition for ending it.

The study's scholarly contribution lies in demonstrating that international law does not establish a general rule requiring national liberation movements to disarm before the end of occupation. By combining an analysis of international legal instruments with international practice, the study helps establish a legal foundation for addressing this issue and enriches the scholarly debate surrounding it.

Keywords:

National Liberation Movements	Armed Resistance	International Law
Self-Determination	Foreign Occupation	International Humanitarian Law

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The Legal and Political Status of the Arms of National Liberation Movements under International Law: An Analytical Study of the Disarmament Question under Foreign Occupation

Introduction



Over the past several decades, international law has witnessed growing debate over the legal status of national liberation movements, particularly as foreign occupation persists in several contexts and controversy continues over the legitimacy of the means these movements employ to exercise the right of peoples to self-determination. The issue has gained further prominence amid international and regional calls for the disarmament of resistance movements before the end of occupation or the achievement of a final political settlement. These calls, in turn, raise legal and political questions about their compatibility with international law and state practice.

Although numerous studies have addressed the right of peoples to self-determination and the legality of armed resistance, they have generally treated these issues separately or focused on either their legal or political dimensions. By contrast, less attention has been paid to the legal and political status of the arms of national liberation movements, particularly the question of disarmament before the end of occupation. This study addresses that gap by combining legal analysis with an examination of international practice.

The significance of this study lies in its examination of a contemporary legal issue at the intersection of public international law, international humanitarian law, and the political dimensions of peace processes. It examines the legal basis of the arms of national liberation movements, assesses whether international law imposes a general obligation to disarm before the end of occupation, and tests this proposition against the Algerian experience, one of the most prominent cases of national liberation culminating in a political settlement that ended colonial rule.

Accordingly, the study asks: Does international law establish a general rule requiring national liberation movements to disarm before the end of occupation, or is the question of disarmament instead left to the settlement that ends the occupation and enables the affected people to exercise their right to self-determination?

To address this question, the study employs an analytical approach to interpret relevant international instruments and examine applicable legal rules, alongside a descriptive approach to tracing the historical development of international recognition of peoples' right to armed resistance. It also uses a case-study approach to examine the Algerian experience, not as a historical comparison, but to assess whether international practice is consistent with the conclusions of the legal analysis.

Accordingly, the study is organized into three sections. The first examines the conceptual framework of arms held by resistance movements; the second analyzes their legal basis and the question of disarmament under international law; and the third examines the Algerian experience and its legal and political implications. The study concludes with its findings and recommendations.

First: Conceptual Framework of Resistance Arms

1. Concept and Conceptual Issues

Before turning to the legal and political debate over resistance arms, a sound analytical approach requires defining "resistance," the concept on which this study rests. Terminology is not merely linguistic; it provides the framework for legal analysis and scholarly conclusions. Accordingly, the more precise and clearly defined the concept, the more objectively related issues can be assessed, apart from political considerations and media discourse.

Conceptual precision is particularly important given the term's widespread use in political, legal and media discourse, where its meaning varies across disciplines. Some studies view resistance as a means of defending rights or challenging domination; others associate it with occupation, colonialism or foreign control; and still others use it broadly to encompass various forms of political and social opposition. This diversity has precluded a definition accepted across the scholarly literature. Accordingly, the principal scholarly approaches must be examined before developing an operational definition suited to this study.

Despite its widespread use in legal and political scholarship, the literature reveals no comprehensive definition of resistance accepted by scholars and researchers. This is less a result of theoretical shortcomings than of the diverse contexts in which the concept has emerged and the different purposes it has served. In international law, resistance may be examined in relation to peoples' right to self-determination; in political science, as a form of political or social action; and in the study of national liberation movements and armed conflicts, as a distinct phenomenon. Consequently, differing analytical perspectives have produced variations in both the definition of resistance and the elements that define its scope.

Accordingly, this study does not seek to establish a single "correct" or definitive definition of resistance. Instead, it reviews the principal scholarly approaches to the concept, examines their areas of convergence and divergence, and identifies common elements that can provide the basis for an operational definition suited to the study's subject and objectives.

Scholars have defined resistance differently according to their intellectual and legal perspectives. These definitions can broadly be grouped into three approaches: linguistic, political and legal.

In Arabic, *muqawamah* (مقاومة), meaning resistance, derives from the verb *qawama* (قاوم), which conveys several related meanings, including confronting, opposing, resisting

and defending. In Arabic usage, the verb may describe one party confronting another or countering an opposing force. it can refer to resisting or fighting against the enemies of one's country.[2]

Accordingly, the linguistic meaning of resistance rests on two fundamental elements: first, the presence of a party or force perceived as a source of pressure or threat; and second, a countervailing action intended to confront that pressure or limit its effects.



Conceptually, definitions of resistance vary across the fields in which the concept has been studied, including political science, law and conflict studies. The Center for Middle Eastern Studies, for example, defines resistance as "the legitimate use of all means, including armed force, to repel aggression and end occupation and colonialism, achieve independence, and overcome oppression backed by armed force, as legitimate political objectives."[3] This definition reflects the association in some scholarship between resistance and conditions of occupation and foreign domination, as well as the means used to confront them. The legality of those means, however, remains subject to the applicable legal framework.

From a political science perspective, resistance is generally understood in terms of power relations and conflict, particularly where a political group or people faces external control, occupation or domination. It has therefore been defined as political action in response to conditions that undermine a society's ability to exercise its political, economic and military rights. Accordingly, resistance seeks to reject subordination, challenge the dominant power, and restore the capacity for independent political action.[4]

From another perspective, some scholars view resistance as a conscious and responsible human act aimed at confronting aggression, defending rights and existence, and preserving the conditions necessary for a free and dignified life. Accordingly, resistance is not limited to the use of force but encompasses various forms of confrontation aimed at changing conditions perceived as unjust or coercive.[5]

Unlike political scholarship, which has sought to formulate direct definitions of resistance, international law has not established a comprehensive definition of the

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[2] Site of Almaany Dictionary, https://www.almaany.com/ar/dict/ar-ar/%D9%82%D8%A7%D9%88%D9%85

[3] "The Concept of Terrorism and Resistance: An Arab-Islamic Perspective," site of Middle East Studies Centre, 15/7/2003, https://mesc.com.jo/Documents/Doc_3.html

[4] Mansur Abu Karim, *Tatawwur Mafhum al-Muqawamah fi al-Fikr al-Siyasi* (The Development of the Concept of Resistance in Political Thought (Jerusalem: Dar al-Jundi for Publishing and Distribution, 2018), p. 33.

[5] Husain Jum'ah, *Thaqafat al-Muqawamah I'adat Bina' al-That al-'Arabiyyah* (The Culture of Resistance: Reconstructing the Arab Self) (Damascus: Dar Raslan for Printing, Publishing and Distribution, 2014), pp. 26–27.

concept. Rather, it addresses resistance indirectly through rules governing legal situations under occupation, national liberation movements, peoples' right to self-determination and armed conflicts. Thus, international legal scholarship has derived the concept from this broader body of rules and principles rather than from a single provision expressly defining resistance.

Some international law scholars define resistance as "fighting operations carried out by nationals who are not members of the regular armed forces in defense of national interests against foreign forces, whether they operate within an organization under the supervision and direction of a de jure or de facto authority or act on their own initiative, and whether they conduct such activities within the national territory or from bases outside it."[6]

Others define resistance as "any use of armed force for national purposes by civilian combatants engaged in clashes with foreign or colonial occupying authorities, or with a racist minority, seeking to achieve self-determination."[7]

Thus, international law has focused less on developing a theoretical definition of resistance than on regulating the legal circumstances in which it arises and the resulting rights and obligations. Accordingly, legal scholarship has generally understood resistance in relation to occupation and the right to self-determination rather than as an independent legal concept.

Others have defined it as "any use of armed force for national purposes by civilian combatants engaged in clashes with foreign or colonial occupying authorities or minorities."

A review of the preceding definitions, despite their differing intellectual, legal and political premises, reveals several fundamental elements underlying the concept of resistance. First, resistance arises in response to aggression, occupation, domination, or control that imposes an unlawful reality on a particular group or people. Second, it involves a voluntary and organized effort to confront and reject that reality through political, popular, or military action. Third, it pursues the protection or restoration of rights or ending occupation or domination. These elements distinguish resistance from forms of violence that lack a clear political or legal purpose.

These definitions also demonstrate that resistance extends beyond armed means. Depending on the nature of the conflict and the circumstances surrounding it, it may take political, legal, diplomatic, media, popular, or armed forms. Accordingly, armed resistance is one manifestation of the broader concept of resistance, which merits separate examination in the following section.

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[6] Salahuddin 'Amer, *Al-Muqawamah al-Sha'biyaah al-Musallahah fi al-Qanun al-Duwali al-'Am* (Armed Popular Resistance in Public International Law) (Cairo: Dar al-Fikr al-'Arabi, 1977), pp. 41–42.

[7] Nasruddin Rimoosh, "The Position of Contemporary International Law on the Legality of the Use of Armed Force in the Context of National Liberation Resistance" (Master's thesis, University of Algiers, Faculty of Law, 1988), p. 155. (in Arabic)

2. Resistance Arms: Concept and Operational Definition

If resistance provides the broader framework for various forms of confrontation, arms constitute one of the principal means employed by resistance movements, particularly under foreign occupation, colonial rule or denial of the right to self-determination. Accordingly, because this study focuses on resistance arms, it is necessary to clarify the concept, identify its defining characteristics, and distinguish it from other forms of armament that may appear similar but differ in nature, purpose and legal status.

a. Definition of Armed Resistance

Armed resistance has been defined as "any armed activity undertaken by peoples against their colonizers or those occupying their territory, or against those subjecting them to blatant and explicit racial discrimination. In this sense, it constitutes the armed struggle of peoples to secure the right to self-determination."[8]

Others define it as activity undertaken by members of the population through armed force against an authority that has invaded the national territory.[9]

Others define armed resistance as a form of resistance that relies primarily on armed force to pursue national and political objectives, particularly in confronting occupation or foreign control. It typically involves the formation of military groups or organizations that conduct operations against occupation forces or military installations and requires a high degree of organization, planning, and clandestine activity, along with sustained logistical support and domestic and external backing. Moreover, a supportive popular base capable of bearing the humanitarian and security costs of armed struggle is considered essential to sustaining their operations, particularly given the often-violent responses by occupying authorities.[10]

Although armed resistance is one form of resistance, it is generally not carried out individually. Rather, it is conducted through organizations that lead the struggle for national liberation, which leads to the concept of national liberation movements.

b. Definition of National Liberation Movements

The concept of national liberation movements has received considerable attention in legal and political scholarship, giving rise to varied definitions shaped by different scholarly and intellectual perspectives. The following are among the principal definitions, which help identify the concept's core elements and common characteristics.

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[8] Muhammad 'Izz al-Din Hamdan, "Armed Palestinian Popular Resistance in Public International Law," site of Democratic Arabic Center, 21/12/2015, https://democraticac.de/?p=24897

[9] Rashid al-'Anzi and 'Abd al-Salam al-'Anzi, "Armed Resistance under the Rules of International Law," *Journal of Legal and Economic Research*, vol. 5, no. 58, October 2015, pp. 268–269.

[10] Awni Fares and Sari 'Arabi, *Mafahim wa Mustalahat al-Qdiyyah al-Filastiniyyah (1)* (Concepts and Terminology of the Palestine Issue (1)) (Istanbul: Vision for Political Development, 2016), p. 24.

Some studies define national liberation movements as national organizations with civilian and military wings that emerge among peoples under foreign control and seek, through various forms of struggle, particularly armed struggle, to exercise their right to self-determination and restore their sovereignty.

Similarly, national liberation movements have been defined as well-organized groups that often resort to armed struggle against colonialism, foreign occupation or various forms of discrimination, with the aim of establishing an independent and sovereign state while adhering to domestic and international law.[11]

The preceding definitions indicate that the core elements of national liberation movements include a political or military organization, a link to a people under foreign control, and the use of methods of struggle aimed at achieving independence and exercising the right to self-determination.

The foregoing discussion also shows that "resistance arms" is not used in legal and political scholarship as a distinct term with a comprehensive, universally accepted definition. Rather, it is closely linked to the preceding concepts, particularly armed resistance and national liberation movements. Accordingly, this study defines resistance arms on the basis of the common elements underlying these concepts.

For the purposes of this study, resistance arms refers to the weapons and means of combat possessed or used by organized resistance movements in confronting occupation or foreign control, with the aim of enabling armed resistance and pursuing national liberation objectives, subject to the rules and constraints of international humanitarian law.

This definition rests on three main elements. First is the organizational element, reflected in the existence of an organized entity responsible for using the arms. Second is the functional element, which links their use to resisting occupation or foreign control. Third is the legal element, namely that the use of armed force is subject to the rules governing armed conflicts. Thus, resistance arms differ from the mere possession of weapons or the use of force outside a defined political or legal framework.

Second: Legal Basis of Resistance Arms under International Law

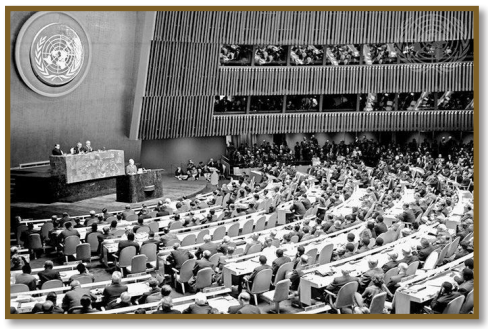
1. Legal Basis of the Right of Peoples under Occupation to Armed Resistance

The status of resistance arms raises a contentious issue in contemporary international law: whether the taking up of arms by peoples under occupation constitutes the exercise of a legally recognized right or contravenes the prohibition on the use of force in

[11] Mabrouk Djenidi, "National Liberation Movements under Public International Law," *Journal of Social Sciences and Humanities*, vol. 8, no. 15, 2018, p. 329.

international relations. The issue becomes more complex when disarmament is demanded while occupation continues or before a settlement addressing its underlying causes has been reached. Accordingly, this section examines the legal basis of resistance arms independently of political positions and context-specific considerations.

a. The Right of Peoples to Self-Determination as a Legal Basis for Resistance



The right of peoples to self-determination is the principal legal basis invoked in international legal scholarship to support the legality of the struggle of peoples under occupation or foreign control. Over time, it evolved from a political principle associated with decolonization movements into an established legal norm recognized in international instruments and regarded as a fundamental principle of the contemporary international legal order. Accordingly, self-determination extends beyond the right of peoples to freely choose their political status to encompass their right to end foreign occupation, colonialism and external domination when such conditions prevent them from exercising that right effectively.

The UN Charter recognized the principle of self-determination in Article 1, which identifies the development of friendly relations among nations based on respect for equal rights and self-determination of peoples as one of the purposes of the organization. It reaffirmed this principle in Article 55, linking it to the "conditions of stability" necessary for "peaceful and friendly relations among nations."[12] The principle was subsequently reinforced in Article 1, common to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which provides that "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."[13]

These instruments do not directly address armed resistance. Nevertheless, they established an important legal foundation for subsequent developments in international law. Where foreign occupation prevents a people from exercising its right to self-determination, recognition of that right necessarily raises questions about the means available to restore it. Accordingly, international practice, legal scholarship, and, later, a number of UN resolutions addressed the relationship between self-determination and

[12] Article 1 (2) and Article 55, United Nations Charter (full text), site of United Nations (UN), https://www.un.org/en/about-us/un-charter/full-text

[13] Article 1, International Covenant on Civil and Political Rights, General Assembly resolution 2200A (XXI), site of UN Human Rights Office of the High Commissioner (OHCHR), 16/12/1966, https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights

resistance to occupation, marking a further stage in the development of legal recognition of national liberation movements.

b. Development of International Recognition of the Right of Peoples to Resist Occupation

International recognition of the right of peoples to resist occupation did not derive from a single legal provision. Rather, it emerged gradually through the development of international law during the second half of the twentieth century, particularly with the expansion of decolonization and the growing number of territories under occupation or foreign control. International practice demonstrated that recognition of the right to self-determination would have little practical effect unless accompanied by means through which peoples could exercise it. Accordingly, the UN adopted a series of resolutions that increasingly recognized the struggle of peoples under occupation and colonial rule to achieve independence and exercise their right to self-determination.

The 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted by UNGA Resolution 1514, marked an important turning point. It affirmed that the "subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations," and that "All peoples have the right to self-determination." Thus, the Declaration helped establish the political and legal foundation for decolonization, although it did not expressly address the means available to peoples to achieve that objective.[14]

As international practice evolved, the Unite Nations General assembly (UNGA) expanded the protection afforded to peoples under occupation. In this context, the 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States, adopted through Resolution 2625, reaffirmed the right of peoples to self-determination and the obligation of states to refrain from using force to deprive them of that right. Thus, it marked a further stage in the development of international legal recognition of national liberation movements.[15]

This development continued. During the 1970s, international practice moved beyond recognizing the right to self-determination to recognizing the right of peoples to struggle for its exercise. In Resolution 3070 (XXVIII), adopted in 1973, the UNGA affirmed the legitimacy of the struggle of peoples under colonial and foreign occupation to achieve

[14] Paragraphs 1 and 2, Declaration on the Granting of Independence to Colonial Countries and Peoples, General Assembly resolution 1514 (XV), A/RES/1514 (XV), OHCHR, 14/12/1960, https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-granting-independence-colonial-countries-and-peoples

[15] Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, UN. General Assembly (25th sess. : 1970), A/RES/2625 (XXV), site of United Nations Digital Library, 24/10/1970, https://digitallibrary.un.org/record/202170?ln=en&v=pdf

independence.[16] It went further in Resolution 3246 (XXIX), adopted in 1974, recognizing the right of such peoples to use "all available means, including armed struggle," consistent with the purposes and principles of the UN Charter, to achieve liberation and self-determination.[17] Thus, these resolutions marked an important development in international law's approach to national liberation movements.

In the same context, UNGA Resolution 3236 (XXIX), adopted on 22/11/1974, is particularly relevant to the Palestine issue. The resolution reaffirmed "the inalienable rights of the Palestinian people in Palestine," foremost among them" the right to self-determination without external interference," "the right to national independence and sovereignty," and "the right to return to their homes and property from which they have been displaced and uprooted." It further affirmed the Palestinian people's right to restore these rights "by all means in accordance with the purposes and principles of the Charter of the United Nations" and appealed "to all states and international organizations to extend their support to" them in doing so.[18]

Taken together, these resolutions show that the UN's position evolved gradually rather than all at once. It began with recognition of the right of peoples to self-determination, followed by an obligation on states to respect that right and refrain from obstructing its exercise, and ultimately extended to recognition of the legitimacy of the struggle of peoples under occupation and colonial rule to recover their rights, particularly in the Palestinian context. This evolution was significant because it shifted the focus from recognizing an abstract right to recognizing the means through which it could be exercised, thereby providing an important foundation for the subsequent treatment of national liberation movements under international humanitarian law.

c. Legal Recognition of National Liberation Movements and Armed Resistance under International Humanitarian Law

International recognition of resistance extended beyond the political sphere, particularly recognition of peoples' right to self-determination, to the legal status of persons participating in armed resistance. Rather than seeking to prohibit all forms of armed resistance, international humanitarian law regulates the conduct of parties to armed conflicts and protects persons affected by them. Accordingly, national liberation

[16] Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights, UN. General Assembly (28th sess.: 1973-1974), A/RES/3070 (XXVIII), UN Digital Library, 30/11/1973, https://digitallibrary.un.org/record/191219?v=pdf

[17] Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights, UN. General Assembly (29th sess.: 1974-1975), A/RES/3246 (XXIX), UN Digital Library, 29/11/1974, https://digitallibrary.un.org/record/190185?ln=en&v=pdf

[18] Question of Palestine, UN. General Assembly (29th sess.: 1974-1975), A/RES/3236 (XXIX), UN Digital Library, 22/11/1974, https://digitallibrary.un.org/record/189835?ln=en&v=pdf

movements fall within the scope of its legal protection in certain circumstances defined by international humanitarian law.

- **The 1949 Geneva Conventions**



The four Geneva Conventions of 1949 marked a significant development in international humanitarian law. They not only strengthened protections for victims of armed conflict but also addressed the legal status of certain categories of combatants. In particular, the Third Geneva Convention relative to the Treatment of Prisoners of War recognized members of certain "organized resistance movements" as entitled to prisoner-of-war status upon capture, provided that they met the Convention's requirements.

Under Article 4(A)(2), "Members of other militias and members of other volunteer corps, including those of organized resistance movements" are entitled to prisoner-of-war status provided that they "fulfil the following conditions: (a) that of being commanded by a person responsible for his subordinates; (b) that of having a fixed distinctive sign recognizable at a distance; (c) that of carrying arms openly; (d) that of conducting their operations in accordance with the laws and customs of war."[19]

This provision shows that the Third Geneva Convention did not treat resistance movements as unlawful merely because they took up arms. Rather, it recognized that their members may be entitled to legal protection when they comply with the requirements of international humanitarian law. Thus, the Convention's significance lies not in conferring legal recognition on the establishment of resistance movements, but in recognizing a legal status for their members when the prescribed conditions are met.

- **Additional Protocol 1 of 1977**

Although the 1949 Geneva Conventions represented a significant development, they did not fully resolve the legal status of conflicts involving national liberation movements fighting against foreign occupation. Accordingly, the international community further developed international humanitarian law through Additional Protocol 1 of 1977, which marked an important advance in this area.

Additional Protocol 1 marked an important development in the legal framework applicable to national liberation movements in response to developments in international law during the 1960s and 1970s, particularly the expansion of movements opposing colonialism and foreign occupation. Accordingly, it adapted international humanitarian

[19] Article 4, Paragraph A (2), Convention (III) relative to the Treatment of Prisoners of War. Geneva, 12 August 1949, Article 4 - Prisoners of war, site of International Humanitarian Law Databases - International Committee of the Red Cross (ICRC), https://ihl-databases.icrc.org/en/ihl-treaties/gciii-1949/article-4

law to the changing international context by bringing certain conflicts involving national liberation movements within the legal framework governing international armed conflicts rather than treating such conflicts solely as internal disturbances.

In particular, Article 1(4) provides that the Protocol applies to "armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination." This marked an important development in international humanitarian law because it brought such conflicts within the framework applicable to international armed conflicts, whereas national liberation movements had often lacked a clearly defined legal status under the 1949 Geneva Conventions alone.[20]

The significance of this provision lies not in establishing a new right for peoples under occupation, but in bringing that right from the realm of political recognition, reflected in UNGA resolutions, into the sphere of legal regulation under international humanitarian law. Accordingly, when a conflict involving a national liberation movement falls within Article 1(4), it is governed by the rules applicable to international armed conflicts, with corresponding rights and obligations for all parties.

Building on this development, Article 44 of Additional Protocol 1 addresses the status of combatants in conflicts covered by the Protocol. It preserves their status as combatants and, consequently, their entitlement to prisoner-of-war status upon capture, while recognizing that the nature of some military operations may make it difficult to maintain a constant distinction between combatants and civilians. Accordingly, combatants must carry their arms openly during each military engagement and while visible to the adversary during deployment for an attack.[21] Thus, the Protocol demonstrates that international humanitarian law does not condition legal protection solely on affiliation with a recognized state. Rather, in the circumstances it specifies, such protection extends to national liberation movements representing peoples struggling against occupation or foreign domination. At the same time, this protection is not absolute; it is conditioned on combatants' compliance with the fundamental rules of international humanitarian law. The Protocol therefore seeks to balance the legal recognition of national liberation conflicts with the protection of civilians and the regulation of the means and methods of warfare.

A close reading of Articles 1(4) and 44 leads to an important legal conclusion: Additional Protocol 1 did not legitimize the possession of weapons as an end in itself. Rather, it recognized the legal status of combatants who use weapons in conflicts falling within

[20] Article 1 (4), Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol 1), OHCHR, 8/7/1977, https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-additional-geneva-conventions-12-august-1949-and

[21] Ibid., Article 44.

the situations covered by the Protocol, while requiring them to comply with international humanitarian law. Thus, the legal question concerns not merely the possession of weapons, but the context in which they are used and the rules governing their use.

d. The Legal Effect of Recognition of National Liberation Movements on the Lawfulness of Resistance Weapons

The international recognition of the right of peoples under occupation to self-determination, together with the subsequent regulation of the legal status of national liberation movements under the Geneva Conventions and Additional Protocol 1, raises a fundamental legal question: to what extent does this recognition affect the lawfulness of such movements' possession of weapons? More specifically, do these instruments merely regulate hostilities when they occur, or do they also provide a legal basis for national liberation movements to retain weapons for armed resistance for as long as the occupation continues?

From a legal perspective, recognition of a people's right to resist occupation is difficult to separate from the means necessary to exercise that right. Rights must be capable of effective exercise; otherwise, they risk becoming merely declaratory and lacking practical effect. Thus, if the UN has recognized peoples' right to self-determination, recognized the legitimacy of their struggle to end occupation, and subjected certain such conflicts to the rules governing international armed conflicts under international humanitarian law, this presupposes the availability of means to exercise that right, including armed means where required by the nature of the conflict and within the limits established by international humanitarian law.

This does not mean that international law grants national liberation movements an unrestricted right to use force or exempts them from international humanitarian law. Rather, the legality of possessing means of armed resistance is linked to the continuing legal basis for their use, namely foreign occupation or colonial domination. Accordingly, the legality of retaining resistance weapons cannot be assessed independently of the legal circumstances of the conflict. It therefore turns on whether the conditions that international law recognizes as the basis for a people's right to resist occupation continue to exist or have ceased.

e. The Legal Nature of Resistance Weapons

The legal status of resistance weapons turns not on their physical nature, but on the purpose for which they are held, the actors who use them, and the legal framework governing their use. International law does not classify weapons as lawful or unlawful merely because they are possessed; rather, the legality of their use is assessed in light of the nature of the conflict, the legal status of the parties, and the rules governing the use of force in armed conflict. Accordingly, the legal status of resistance weapons must be considered within the broader context in which they are used, particularly where foreign occupation prevents a people from fully exercising its fundamental rights, foremost among them the right to self-determination.

Against this backdrop, the development of international law indicates that recognition of the right of peoples to self-determination, together with the legal recognition of national liberation movements in several UNGA resolutions and under Additional Protocol 1 of 1977, established a legal basis for the status of resistance movements in conflicts involving occupation or foreign domination. Thus, the means employed to exercise that right cannot be considered separately from the legal framework that international law has established for such movements.[22]

However, recognition of the legal status of weapons held by resistance movements does not grant national liberation movements an unrestricted right to use force. Rather, any use of force remains subject to the fundamental rules of international humanitarian law, particularly the principles of distinction and proportionality, the duty to take feasible precautions during military operations, and the prohibition of means and methods of warfare that cause unnecessary suffering or target protected persons. Accordingly, violations of these rules may entail responsibility for unlawful acts, but do not, in themselves, negate the legal status accorded to national liberation movements under international law in the context of occupation.[23]

This leads to an important legal point: assessing the status of such weapons should focus not on the weapons themselves, but on the legal basis for their possession and use. If international law recognizes the right of peoples under occupation to pursue self-determination and regulates the status of national liberation movements under international humanitarian law, the continuation of occupation remains relevant to assessing the legal status of the means of resistance employed by such movements. Accordingly, any assessment of disarmament or demands for the relinquishment of these weapons cannot be separated from the question of whether the legal circumstances underlying that recognition have ended.

3. The Legality of Demanding the Disarmament of Resistance Movements under Continued Occupation

The disarmament of resistance movements remains one of the most contentious issues in conflicts involving occupation, particularly when raised during ceasefire negotiations or political settlements before the occupation has ended or the legal basis for the occupation has ceased to exist. The central question is whether demanding that resistance movements relinquish their military means constitutes an obligation under international law or instead reflects a political demand shaped primarily by the terms of negotiation. This distinction is particularly important where the occupation continues or its legal

[22] Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights, UN. General Assembly (29th sess.: 1974-1975), A/RES/3246 (XXIX); and Article 1 (4), Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol 1).

[23] Articles 35, 48, 51, 52 and 57, Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol 1).

and practical effects persist, making it necessary to distinguish between binding legal obligations and proposals or conditions advanced in political negotiations.

Accordingly, assessing the legality of demanding disarmament requires consideration of the principles discussed above, particularly the right of peoples to self-determination, the international recognition of national liberation movements, and the rules of international humanitarian law governing the status of combatants in conflicts involving occupation. Thus, the legal question is not the mere existence of weapons, but whether international law requires a people under occupation to relinquish the means of resistance before the occupation has ended.

a. The Existence and Legal Basis of an International Obligation to Disarm Resistance Movements

Assessing calls to disarm resistance movements requires distinguishing between binding rules of international law and measures proposed in negotiations or political initiatives as conditions or bargaining positions. Not every measure advanced in a political settlement constitutes a legal obligation; likewise, one party's acceptance of a particular measure does not, by itself, establish a general rule binding on all national liberation movements.

In this regard, neither the UN Charter nor Additional Protocol 1 of 1977, nor the applicable rules of international humanitarian law, provides for a general obligation requiring peoples under occupation or national liberation movements to disarm before the end of occupation or the conclusion of a final legal settlement. Rather, these instruments address the right of peoples to self-determination, the regulation of force during armed conflict, and the rights and obligations of the parties, without making disarmament a general prerequisite for ending an occupation or reaching a political settlement. Accordingly, the legal status of weapons remains closely tied to the circumstances of each conflict and the terms of the settlement that brings it to an end, rather than to a general rule requiring the relinquishment of armed resistance before the circumstances giving rise to it have ended.[24]

The binding force of international law rests on a recognized legal basis within the international legal system. International obligations do not arise merely from political proposals or negotiating positions; rather, their binding force derives from recognized sources of international law, particularly treaties, customary international law, and general principles of law.[25] Accordingly, establishing an international obligation requires identifying its legal basis, whether a treaty provision, a rule of customary international law, or an established legal principle. Thus, a call to disarm resistance movements

[24] UN Charter (full text), UN; and Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol 1).

[25] Abdullah al-Salmo, *Al-Qanun al-Duwali al-'Am* (Public International Law) (Al-Hasakah: Al-Furat University, Faculty of Law, Directorate of University Books and Publications, 2023–2024), p. 35ff., https://alfuratuniv.edu.sy/pdf/%D9%83%D8%AA%D8%A7%D8%A8%20%D8%A7%D9%84%D9%82%D8%A7%D9%86%D9%88%D9%86%20%D8%A7%D9%84%D8%AF%D9%88%D9%84%D9%8A%20%D8%A7%D9%84%D8%B9%D8%A7%D9%85.pdf

does not, by itself, constitute a general legal obligation simply because it is advanced through political initiatives or negotiations; such an obligation requires an applicable and sufficiently established rule of international law imposing it.

b. The Impact of Continued Occupation on the Legal Basis for Retaining Resistance Weapons

International recognition of peoples' right to resist occupation was neither abstract nor absolute. Rather, it arose from the exceptional legal circumstance of foreign occupation, which prevents a people from exercising its right to self-determination. Accordingly, the relationship between occupation and the right to resist is not merely temporal but legal and causal: continued occupation remains central to the legal basis for the continued exercise of a right recognized under international law. Thus, assessing the legality of retaining resistance weapons first requires determining whether the legal circumstances that gave rise to recognition of this right remain in place or have come to an end.

Since the adoption of Resolution 1514 (XV) in 1960 on the granting of independence to colonial countries and peoples, the UN has affirmed that colonialism and foreign domination violate the right of peoples to self-determination. It reaffirmed this principle in the 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, adopted under Resolution 2625 (XXV), and again in Resolution 3246 (XXIX) of 1974, which affirmed the legitimacy of the struggle of peoples under colonial and foreign occupation or domination to exercise their right to self-determination. Accordingly, these instruments did not make recognition of this right contingent on temporary political considerations; rather, they linked it to the continuing legal circumstances of occupation or foreign domination.[26]

This position is further supported by Additional Protocol 1 of 1977, which provides that "armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination" fall within the scope of international armed conflicts. Thus, international humanitarian law recognizes the distinctive legal character of such conflicts and subjects their parties to the rules governing their rights and obligations during hostilities. At the same time, the Protocol does not provide that this legal status ends merely because negotiations begin or a temporary ceasefire is agreed upon.[27]

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[26] Declaration on the Granting of Independence to Colonial Countries and Peoples, General Assembly resolution 1514 (XV), A/RES/1514 (XV), OHCHR; Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, UN. General Assembly (25th sess.: 1970), A/RES/2625 (XXV), United Nations Digital Library; and Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights, UN. General Assembly (29th sess. : 1974-1975), A/RES/3246 (XXIX).

[27] Article 1 (4), Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol 1), OHCHR.

Accordingly, in the researcher's view, the continuation of occupation is a key factor in assessing the legal status of resistance weapons. Their legal significance derives not from the weapons themselves, but from their role as means associated with a right recognized under international law in specific circumstances. If the occupation legally ends in a manner that enables the people concerned to exercise their right to self-determination effectively, the legal basis for that right would need to be reassessed in light of the new circumstances. Conversely, if the occupation continues, calls to disarm an occupied people without addressing the circumstances that gave rise to the asserted right raise a legal question: whether that right can be separated from the means necessary for its exercise, particularly where international law does not expressly establish such a separation.

c. Distinguishing Legal Obligations from Political Arrangements Concerning the Disarmament of Resistance Movements

Assessing the disarmament of resistance movements requires not only determining whether international law mandates it, but also distinguishing obligations arising directly from international law from those established through agreements or political settlements voluntarily accepted by the parties. This distinction is particularly important in conflicts involving occupation, where issues addressed in negotiations do not necessarily acquire the status of general legal obligations or binding rules of international law.

International law recognizes the freedom of states to conclude agreements and define their legal effects, provided they act with valid consent and do not violate peremptory norms. Accordingly, including disarmament provisions in a peace agreement or political settlement does not derive their binding force from a general rule of international law requiring disarmament. Rather, its binding force derives from the agreement itself and extends only to the terms accepted by its parties. This is consistent with the *pacta sunt servanda* rule and reflected in the 1969 Vienna Convention on the Law of Treaties, which provides that "Every treaty in force is binding upon the parties to it and must be performed by them in good faith."[28]

Accordingly, when a national liberation movement or a people under occupation agrees to disarm as part of a comprehensive settlement, that agreement cannot be generalized into a legal rule applicable to all cases of occupation. In such circumstances, the obligation arises from the specific agreement, not from general international law. Moreover, the legality and effects of such an agreement must be assessed in light of the circumstances in which it was concluded and the extent to which it fulfills its intended purpose, particularly ending the occupation and enabling the people concerned to effectively exercise their right to self-determination.

[28] Article 26, Vienna Convention on the Law of Treaties 1969, site of UN Office of Legal Affairs, 23/5/1969, https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf

Thus, a call for the disarmament of a resistance movement may form part of political negotiations or a peace settlement, but this alone does not make it a general legal obligation. Any legal assessment should therefore distinguish between obligations imposed by international law and measures accepted by the parties through specific agreements. This distinction is particularly important where the underlying legal circumstances, foremost among them occupation, remain in place.

Third: Legal and Political Implications of Comparative Experiences in Regulating the Weapons of National Liberation Movements

This section does not aim to survey the historical experiences of national liberation movements. Instead, it uses selected comparative cases to test the findings developed in the preceding sections. The Algerian and South African experiences were selected because they are among the most prominent national liberation struggles examined in international legal scholarship and practice, and because both ultimately concluded through negotiations following years of armed resistance. Together, they illustrate how the issue of weapons was addressed in political settlements and whether disarmament was treated as a prerequisite for ending colonial rule or apartheid, or instead followed from the political transformation that removed the conditions underlying the armed struggle.

The Algerian Experience and the Impact of Decolonization on the Status of Resistance Weapons

1. The Historical and Political Context of the Algerian Resistance



The Algerian experience holds a distinctive place in the legal and political literature on national liberation movements. It is a prominent example of armed struggle and diplomatic efforts unfolding in parallel, ultimately leading to the dismantling of colonial rule and the establishment of an independent, sovereign state. Its significance, however, extends beyond independence itself: the struggle coincided with a broader shift in international legal and political approaches to decolonization and the recognition of the right of peoples under foreign domination to self-determination. Accordingly, examining the Algerian experience is not intended to recount the history of the revolution, but rather to assess how the status of weapons was addressed during the transition from colonial rule to independence, and whether relinquishing arms was treated as a prerequisite for ending colonial rule or instead followed from the end of colonial rule.

The French occupation of Algeria began in 1830 and extended beyond military control to a long-term settler-colonial project aimed at reshaping the country's political, economic and social structures and consolidating French rule. To this end, the French administration pursued extensive agricultural land confiscation and redistribution to European settlers, while introducing new administrative and legal structures intended to integrate Algeria

into the French system and weaken the national identity of its indigenous population. These policies, in turn, contributed to the growth of resistance over successive stages, culminating in the outbreak of the Algerian Revolution in 1954.[29]

The Algerian national movement's transition to armed struggle was likewise not an isolated decision, but the culmination of decades of failed reform efforts and political demands for a fundamental change in the relationship between Algeria and the colonial authorities. France's insistence on treating Algeria as an integral part of its territory, together with its repeated rejection of independence demands, narrowed the prospects for a political settlement. Consequently, the National Liberation Front (FLN) adopted armed resistance as a means of pursuing a specific political objective, ending colonial rule, rather than as an end in itself.[30] From this perspective, the continued possession of weapons remained closely tied to the continuation of occupation, a connection that would later acquire legal significance in the negotiations leading to the Evian Accords and the end of French colonial rule.

2. The Internationalization of the Algerian Question and Its Impact on the Transition to a Political Settlement

The Algerian Revolution was not merely a military confrontation between a colonial power and a national liberation movement. Over time, the conflict underwent a significant transformation, gradually shifting from an internal French matter, as France insisted, to an international issue that received increasing attention within the UN and at international and regional forums. This shift was not merely a change in the characterization of the conflict; it also reshaped its legal and political context and helped pave the way from military confrontation to political settlement.

The Algerian question was placed on the UNGA agenda in 1955. However, its consideration at that stage did not result in an official position affirming Algeria's right to self-determination. UNGA Resolution 909 (X), adopted on 25/11/1955, merely decided not to consider further the item entitled "The question of Algerian" during that session.[31] The UNGA continued to address the Algerian question in subsequent sessions. In 1957, it expressed concern over the situation in Algeria and emphasized the importance of reaching a peaceful settlement through negotiations, in conformity with the purposes and principles of the UN Charter.[32] As the number of newly independent states within the UN grew, the majority of international resolutions and deliberations increasingly emphasized

[29] Maqlati 'Abdullah, *Al-Marji' fi Tarikh al-Jaza'ir al-Mu'asir (1830–1954)* (The Reference on the History of Contemporary Algeria (1830–1954) (Algeria: University Publications Office, 2014), pp. 107–113.

[30] Sahel Yusuf, "The First November 1954 in Algeria and the Inevitability of the Armed Struggle," *Journal of Studies in History and Civilization*, vol. 2, 2022, pp. 18–20.

[31] The Question of Algeria, UN. General Assembly (10th sess.: 1955), A/RES/909 (X), UN Digital Library, 25/11/1955, https://digitallibrary.un.org/record/208017?ln=en&v=pdf

[32] The question of Algeria, UN. General Assembly (12th sess.: 1957), A/RES/1184 (XII), UN Digital Library, 10/12/1957, https://digitallibrary.un.org/record/207486?ln=en&v=pdf

the need to enable the Algerian people to exercise their right to self-determination.[33] This shift helped sustain international attention to the Algerian question and highlight its political and legal dimensions within UN deliberations, rather than treating it solely as an internal French matter.

This development directly strengthened the political and negotiating position of the FLN. It was no longer treated merely as an armed insurgent movement; instead, the French government was compelled to engage with it directly to negotiate an end to the conflict.[34] Historical sources indicate that contacts between the two sides began in 1956 and developed through several rounds of negotiations, most notably the Melun talks in 1960. Although those talks ended without agreement because both sides maintained their core positions, negotiations later resumed and ultimately led to the Evian Accords.[35] Signed on 18/3/1962, the Accords established the legal framework for a ceasefire and paved the way for a self-determination referendum and the end of French colonial rule.[36] Thus, the transition to a political settlement did not result from the FLN abandoning armed struggle. Rather, negotiations proceeded alongside the armed struggle until the parties reached a comprehensive agreement that addressed Algeria's political future and brought French colonial rule to an end.

This suggests that, in the Algerian experience, the transition from armed resistance to political settlement was not predicated on requiring the national liberation movement to disarm before negotiations began. Rather, it was based on mutual recognition of the need to reach a political settlement that would end the colonial conflict and enable the Algerian people to exercise their right to self-determination. Accordingly, the Algerian experience provides an important example of the distinction between the continued use of armed force during negotiations and the subsequent regulation of its legal status once a settlement has been reached that removes the underlying circumstances that gave rise to it.

3. The Evian Accords and the Status of the National Liberation Army's Weapons

After years of armed conflict and stalled negotiations, the French government and the Provisional Government of the Algerian Republic signed the Evian Accords on 18/3/1962. The ceasefire took effect the following day, initiating a transitional period that culminated in a self-determination referendum and Algeria's declaration of independence

[33] The Question of Algeria, UN. General Assembly (15th sess.: 1960-1961), A/RES/1573 (XV), UN Digital Library, 19/12/1960, https://digitallibrary.un.org/record/205864?ln=en&v=pdf

[34] Moqadem Sayyed Ahmad, "Negotiations and Negotiators in the History of Algerian Independence, 1960–1962" (PhD dissertation, Djillali Liabes University, Faculty of Humanities and Social Sciences, Department of History, 2017), pp. 77–80.

[35] Ibid., pp. 80–90.

[36] Ibid., p. 111.

on 5/7/1962. The Accords addressed political, military and administrative matters related to ending French colonial rule and transferring authority to the independent Algerian state, thereby facilitating an orderly transition from conflict to independence.[37]

A close reading of the Evian Accords shows that they focused on the ceasefire, transitional arrangements, and ensuring the Algerian people's exercise of their right to self-determination. They did not require the FLN or the National Liberation Army (ALN) to surrender their weapons as a condition for recognizing Algeria's independence or implementing the agreement. Instead, military matters were addressed within the broader framework of ending hostilities and transferring authority, ultimately placing responsibility for the armed forces with the newly independent Algerian state as a sovereign institution.[38]

The Algerian experience therefore did not separate the end of occupation from the question of weapons; rather, it addressed both within a single political and legal process. French colonial rule ended first, after which responsibility for organizing the armed forces passed to the newly independent national state. Accordingly, the Algerian case does not support the view that disarming a national liberation movement constitutes a legal obligation that must precede the end of occupation. Rather, it indicates that the regulation of weapons followed the end of colonial rule and the establishment of an independent state, rather than serving as a prerequisite for either.

4. The Legal and Political Significance of the Algerian Experience

The scholarly value of the Algerian experience lies not only in its historical specificity but also in its usefulness as a practical case for testing the consistency of international practice with the legal principles examined above. By tracing the Algerian Revolution and the political settlement that followed, it is possible to assess how the weapons of a national liberation movement were addressed and whether disarmament was treated as a legal obligation preceding the end of colonial rule or as part of the settlement that brought it to an end.

The Algerian experience indicates that armed resistance and political settlement were not treated as mutually exclusive; rather, they formed complementary stages in the decolonization process. Throughout the negotiations, the FLN retained its military capacity, while the Evian Accords focused on the ceasefire, transitional arrangements,

[37] See "No. 7395: France and Algeria: Exchange of letters and declarations adopted on 19 March 1962 at the close of the Evian talks, constituting an agreement. Paris and Rocher Noir, 3 July 1962," in *Treaty Series: Treaties and international agreements registered or filed and recorded with the Secretariat of the United Nations* (New York: UN, 1965), vol. 507, pp. 25–99, https://treaties.un.org/doc/Publication/UNTS/Volume%20507/v507.pdf; and Moqadem Sayyed Ahmad, "Negotiations and Negotiators in the History of Algerian Independence, 1960–1962," pp. 121–127.

[38] See "No. 7395: France and Algeria: Exchange of letters and declarations adopted on 19 March 1962 at the close of the Evian talks, constituting an agreement. Paris and Rocher Noir, 3 July 1962"; and Moqadem Sayyed Ahmad, "Negotiations and Negotiators in the History of Algerian Independence, 1960–1962," p. 123.

and the Algerian people's exercise of their right to self-determination, without making the disarmament of the ALN a legal prerequisite for recognizing Algeria's independence.[39]

This experience further confirms that the question of weapons was addressed as a consequence of the end of the colonial conflict, rather than as a precondition for ending it. With Algeria's transition to independence, responsibility for organizing the armed forces likewise passed to the institutions of the sovereign Algerian state. This reflects the close relationship between the regulation of weapons and the disappearance of the legal circumstances that had initially given rise to armed resistance, namely, the continuation of foreign occupation. Accordingly, the Algerian experience does not support the existence of a rule of international law requiring national liberation movements to relinquish their military means before the end of occupation. Rather, it indicates that the status of weapons is addressed within the final settlement that ends the occupation and restores the sovereignty of the affected people over their territory.[40]

Taken together, these findings show that the Algerian experience is consistent with the conclusions reached in the preceding sections: international law recognizes the right of peoples subject to colonial rule and foreign occupation to self-determination and the legitimacy of their struggle to achieve it, subject to the constraints imposed by international humanitarian law, without establishing a general obligation to disarm national liberation movements before the end of occupation. Moreover, the experience shows that international practice has tended to address the question of weapons within settlements that end occupation and address its consequences, rather than treating disarmament as a legal precondition for ending the conflict. This, in turn, reinforces the study's principal conclusion concerning the legal status of weapons held by national liberation movements.

Conclusion

This study examined the legal status of resistance weapons under international law by analyzing armed resistance and national liberation movements, tracing the development of international law recognizing the right of peoples subject to colonial rule and foreign occupation to self-determination, and assessing whether a legal obligation exists requiring national liberation movements to disarm before the end of occupation. It also tested these theoretical findings through an analysis of the Algerian experience as a practical case of the interaction between armed resistance and political settlement in the context of decolonization. The analysis yielded the following findings:

[39] See "No. 7395: France and Algeria: Exchange of letters and declarations adopted on 19 March 1962 at the close of the Evian talks, constituting an agreement. Paris and Rocher Noir, 3 July 1962"; and Moqadem Sayyed Ahmad, "Negotiations and Negotiators in the History of Algerian Independence, 1960–1962," pp. 121–125.

[40] See "No. 7395: France and Algeria: Exchange of letters and declarations adopted on 19 March 1962 at the close of the Evian talks, constituting an agreement. Paris and Rocher Noir, 3 July 1962."

Findings

- The study demonstrates that international law contains no comprehensive legal definition of resistance weapons. Nevertheless, its rules and principles support understanding them as the military means employed by national liberation movements in exercising the right of peoples to self-determination and resisting foreign occupation, subject to the rules of international humanitarian law governing their use.
- The study finds that international recognition of the right of peoples to self-determination did not derive from a single legal instrument. Rather, it developed gradually through the consolidation of the principle of self-determination and its subsequent affirmation in UNGA resolutions, particularly Resolutions 1514, 2625, 3070, 3246 and 3236, culminating in the legal protection accorded to national liberation movements under Article 1(4) of Additional Protocol 1 of 1977.
- The study concludes that international law does not establish a general rule requiring national liberation movements to disarm before the end of occupation. Neither the UN Charter, the four Geneva Conventions of 1949, nor Additional Protocol 1 of 1977 contains such an obligation, nor is it supported by established international legal scholarship or practice.
- The study further finds that recognition of the legal status of resistance weapons does not confer an unrestricted right to use force. Rather, their use remains subject to international humanitarian law, particularly the principles of distinction and proportionality and the prohibition against targeting civilians and protected persons.
- The Algerian experience demonstrates that the transition from armed resistance to political settlement did not depend on requiring the national liberation movement to disarm before negotiations began or before the Algerian people's right to self-determination was recognized. Rather, the status of its weapons was addressed within a political settlement that ended colonial rule and established an independent state.
- The study concludes that the legal treatment of weapons held by national liberation movements is linked to the nature of the conflict and the persistence of the circumstances that gave rise to armed resistance. Accordingly, once occupation ends, responsibility for regulating such weapons passes to the national state as an expression of its sovereignty and domestic jurisdiction.
- The study demonstrates that, when examined in light of relevant legal instruments and practical experience, international practice does not support treating the disarmament of national liberation movements as a legal obligation preceding the end of occupation. Rather, they indicate that the issue is addressed within a comprehensive settlement that resolves the underlying conflict and enables the people under occupation to exercise their right to self-determination.

Recommendations

- The study recommends that any negotiating process concerning the Palestine issue be grounded in the relevant rules of international law governing the Palestinian people's right to self-determination. Accordingly, neither the Palestinian people nor their representatives should be required to disarm or otherwise regulate resistance weapons outside a comprehensive legal settlement that ends the occupation and recognizes the Palestinian people's right to establish an independent, sovereign state.
- The study further recommends that Palestinian negotiators, when addressing security or military issues, maintain a clear distinction between ending the occupation and regulating the status of weapons. International practice and the experiences of national liberation movements indicate that the latter is linked to ending the conditions that gave rise to armed resistance and to the termination of occupation, rather than constituting a prior legal obligation.
- The study calls for drawing on the historical experiences of national liberation movements, particularly Algeria, when developing legal frameworks for the post-occupation phase. This would help ensure an orderly transition from resistance to state-building in accordance with the principles of sovereignty and the rule of law.
- The study further recommends comparative research on how international settlement agreements address the status of weapons held by national liberation movements. Such research could advance legal scholarship on the issue and enrich the broader academic debate.
- The study recommends that the UN and international actors supporting political settlement processes account for the distinctive nature of conflicts arising from foreign occupation. Accordingly, the status of weapons held by national liberation movements should not be considered separately from efforts to end the occupation and enable the affected peoples to exercise their right to self-determination, in accordance with international law and relevant UN resolutions.