

ТЕОРІЯ ТА ІСТОРІЯ ДЕРЖАВИ І ПРАВА, МІЖНАРОДНЕ ПРАВО

DOI:

UDC 341.01:342.2:327 (045)

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CONTINUOUS STRUGGLE OF GEORGIA WITH OCCUPATION

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*The purpose of the article is explores for independence Georgia's varied struggle against occupation both past and present. **Research methods:** the chosen topic of scientific research requires the use of various scientific methods and approaches to obtain high-quality results. Therefore, the following research methods were used to solve the tasks set: analysis; systematic method; analytical method, etc. **Results:** along with the restoration of Georgia's independence, the country has been fighting an ongoing battle against occupation, confronting multiple threats to its sovereignty and territorial integrity. This article explores Georgia's varied struggle, both past and present. Significantly, despite concerted efforts to settle the situation, the occupation persists, casting a pall over the country's hopes for peace and stability. The fundamental goal of Georgian strategy was to improve the existing procedures against the occupation. Georgia has worked to improve its defenses and obtain global support for its cause through diplomatic relations and multilateral collaborations. However, the persistent character of the occupation necessitated a thorough reconsideration of peacekeeping procedures and strategies, as evidenced by the current situation in Ukraine. Georgia hopes to improve its ability to detect and deter acts of aggression by increasing interaction with regional and international players. Furthermore, policies that foster discussion and reconciliation are critical components of any long-term peace deal. **Discussion:** the article seeks to depict Georgia's ongoing struggle with occupation using dogmatic and comparative legal analysis. This approach demonstrates the critical necessity for ongoing international engagement and support. Georgia is attempting to overcome the problems of the occupation and achieve its vision of a safe future by upgrading current processes and contributing to the modernization of the peacekeeping system.*

Key words: Occupation; Georgia; sovereignty; territorial integrity; peacekeeping; diplomacy; global support; aggression; legal analysis; international engagement.

Problem statement and its relevance. The stages of Georgia's existence as an independent state were politically difficult to model. As a country that continued its history with constant wars, its main political goal was still the protection of its national identity and the restoration of statehood [1].

States located in Georgia's neighborhood, which had an interest in strengthening foreign or domestic policies, could not adapt to the presence of such a strong and rapidly developing state as Georgia.

Accordingly, they tried to weaken Georgia's strength and turn it into a dependent country in various ways. This goal was often achieved through military conflict, and therefore there was always a problem of maintaining territorial unity in Georgia, and occupation was a constant threat.

In addition to foreign problems, Georgia's domestic policy was also inadequate. Under the external strength and splendor, complicated internal politics were hidden, because there were a number of circumstances that prevented its existence as a

unified, strong state. I mean internal strife, betrayal of the feudal lords and so on. Of course, external force was the main factor here as well. Because those states that could not defeat Georgia by military confrontation often resorted to such methods of defeat as bribing feudal lords, intimidation and using them for their own benefit.

One of the prominent manifestations of the heroic history of the Georgian people was not fighting against any state and appropriating its territory, but protecting one's own land and water without restricting the freedom of others.

Summary of the main research material. *The beginning of the occupation of Georgia.* Due to religious similarity, Georgia did not have much choice, one of its neighboring states Russia, which also had its own interests in Transcaucasia, was the most optimal option for alliance. Because of this, Georgia turned to Russia for subordination and protection as soon as it got on the path of political development. In fact, Russia, fighting for dominance in Transcaucasia, was distinguished from other neighbors of Georgia by its strength, centralization of government and, most importantly, its faith. "We ancestors thought that a strong Christian nation would provide unselfish help to a small Christian nation, and there would be no place for apathy in the politics of a strong nation" [2] wrote Ivane Javakhishvili. Russia, in the process of its own state formation, was considered as the savior of the Christian-Orthodox world and had a messianic role. It was on the basis of this kind of assessment and belief that the imperial intentions of the Russian policy were gradually revealed. His political ideology is the pillar, it was reflected in his own messianism, which meant conquering the entire Transcaucasia and gaining access to the seas. However, as we mentioned above, Russia was not the only state that had similar interests. The interests of the three great powers Iran, the Ottoman Empire, and Russia were already intersecting here, which was an indication that an even greater threat awaited the politically active Transcaucasian region.

Ever since the end of the 16th century, the permanent connection and diplomatic relations between the kings of Russia and the principality of Kakheti began [3]. The "deed of mercy" signed in

1587 is especially remarkable, the content of which indicates that the king of Kakheti, Alexander, is a subject of Russia [3]. In the following years, the connection between Russia and the individual principalities of Georgia was not broken and was constantly active. This happened even when in the 18th century, Russia appeared to us not as a state, but as an empire. Accordingly, his incessant thinking about the union of territories and political superiority grew stronger and stronger.

Throughout history, Georgia has always had a complicated political atmosphere, therefore, Georgia, as one of the most strategically well-located states in the Caucasus, has had a constant interest on the part of the countries. Especially this interest was expressed from the Russian Empire located in the north of our state, later from the Soviet Union and the Russian Federation. The imperial intentions that Russia had towards Georgia represented actions based on power politics. If we look at the political relations of these two countries, we will see that the Russian Empire, as a "rescue" state, often appeared to help Georgia in distress. However, the real reason for such assistance was obvious - the role of the helping and savior state was the result of Russia's permanent policy.

This is exactly what happened in the 80 s of the 18th century, when Georgia took another fatal step to preserve its statehood and signed the Georgievsky Treaty with the Russian Empire. Actually, such steps of Georgia, I mean the signing of various alliance treaties, were aimed at the fact that with the help of the allied state, Georgia would be able to feel a temporary relief and the process of ascent would be facilitated. However, unfortunately, the allied states never had similar interests and constantly abused Georgia's trusting policy.

The Georgievsky Treaty was an eternal turning point for Georgia towards Russia. King Erekle thought that with this agreement Georgia would be given relief from the Muslim invaders for a short time, but unfortunately his expectations were not met and soon Russia's imperial policy showed itself once again. When King Erekle was supposed to receive the military aid defined by the Georgievsky Treaty, at that time the empire refused to send Georgia and slowly got involved in its own great

politics [4]. The treaty concluded with Russia became the reason that in 1795, one of the most cruel conquerors, Aga Muhammad Khan, invaded and brutalized eastern Georgia. From that time on, the idea of a unified policy of Georgia was met with opposition at the very foundation, and unfortunately, it could not develop for a long time.

The signing of the Treaty of Georgievsky was a real basis for the Russian Empire, which made it easier to conquer Georgia. And so it happened, in 1801, Tsarist Russia abolished the Kingdom of Kartli-Kakheti and subjected Eastern Georgia entirely to its own policy. In the following years (1810), Tsarist Russia successively abolished the principalities of Imereti, Guria, Samegrelo, Svaneti and Abkhazia. In fact, all of Georgia falls into the hands of Russia and loses its statehood.

This step of Russia was not only the abolition of kingdoms, but it represented the first step towards occupation. After the conclusion of the treaty, the Russian Empire continued to take actions to further undermine the already abolished statehood of Georgia.

Throughout the next 19th century, the population of Georgia constantly fought against the imperial policy of Russia, despite the fact that almost no large-scale rebellion was won, the spirit of the Georgian people never stopped in their pursuit of freedom.

Towards the end of the 19th century, personalities appeared in the political arena of Georgia who fought for the restoration of Georgian statehood and the preservation of nationalism. Many such organizations were founded with the great efforts and desire of the well-known Tergdale people, which were aimed at regulating the Georgian nationality and socio-economic situation. This jaffa did not go well, and soon a moment came in the history of Georgia, when the Georgian nation woke up and became even more convinced of the unstoppable struggle to protect its identity. Slowly, new political ideologies begin to emerge, political parties are formed, and a new stage in the country's awareness begins.

Struggle of Georgia for the protection of sovereignty. Georgia was now going through the stage that Europe went through in the 18th-19th centuries. Many new forces were created to fight

for the unity and independence of Georgia. The Georgian nation could not adapt to the occupation of Georgian territory by the Russian Empire and used every possible chance to achieve its own goals.

At the beginning of the 20th century, during the First World War, Georgia found a new ally in the international arena in the form of Germany. The "Independence Committee" formed outside of Georgia actively worked with the representatives of various political parties in Georgia. The goal was simple - everyone was fighting for the independence of Georgia, therefore they should not waste a long time in searching for an ally, but actively use any available opportunity.

And so it happened, on May 26, 1918, Noah Jordan announced Georgia's independence. It should be noted that Germany recognized Georgia's independence on May 28, 1918 [5].

Shortly after the declaration of independence, a new wave of confrontations and hostilities began in Georgia. Georgia's neighboring states could not adapt to its territorial integrity, because of this Georgia had to pursue a moderate policy from the day of the declaration of independence, the result of which should have been the preservation of statehood.

The already disintegrated Russian Empire still could not accept the existence of Georgia as an independent state and tried to break its statehood by various means.

The saddest fact in the centuries-old history of Georgia is that, despite the great desire for independence, separatists were constantly found inside the country, who strongly opposed the struggle for the unification of the state [5].

Fighting the Occupation in the 21st Century. Since after the collapse of the Russian Empire, Soviet Russia began to complete the borders of the empire, Georgia was obviously included here. Its actions continued after the collapse of the Soviet Union, the Russian Federation once again proved its desire for territorial expansion at the expense of neighboring states and deliberately started actions against the statehood of Georgia. In the 90s of the 20th century, Russia constantly pursued its political goals in Georgia by interfering in the civil war, ethno-political conflict, or in the internal affairs of

Georgia. At the beginning of the 21st century, many anti-state acts were added to this list, the construction of military bases by Russia in the non-controlled territory of Georgia, the bombing of the territory of Georgia by the Russian military aviation, terrorist acts on the territory of Georgia, the training of paramilitary groups of military separatists, the planning of war against Georgia by the Russian General Staff, as well as Distribution of passports for residents of Russian Abkhazia and Tskhinvali region [6]. This is an incomplete list of what the Russian Federation was doing in the controlled territories of Georgia with the help of the separatists.

The escalation of the situation begins on February 17, 2008, when Kosovo declares its independence and is recognized by the majority of Western states. The head of the Russian General Staff, Yuriy Baluevsky, responded to this fact and said that "in other regions, including those close to the borders of Russia", this fact will have a response. Based on this statement, as well as the previous situation, it was likely that Russia would use Kosovo's recognition of independence to fulfill its own occupation goals. Since March, the Georgian authorities have seen the real danger of Russian aggression and intervention [7]. At the beginning of March, Georgia announced that it wants to join the North Atlantic Treaty Organization (NATO). Moscow will understand this against itself, and on March 11, Dmitry Rogozin, Russia's representative in NATO, made a statement: "As soon as Georgia receives any prospect of NATO membership from Washington, the process of real secession of these two territories (Abkhazia, Tskhinvali region) from Georgia will begin the very next day"[8]. On April 8, Russian Foreign Minister Sergey Lavroma said that "Russia will do everything to prevent Georgia and Ukraine from joining NATO, to prevent the inevitable sharp deterioration of relations with the alliance, its host countries and neighbors". Russia openly expressed its political aspirations not only for Abkhazia and Tskhinvali region, but also for the entire territory of Georgia. The situation was especially aggravated when, on April 16, Putin ordered the Russian state agencies to establish contact with the separatist regimes of two regions of Georgia [9]. It was

obvious that Russia was going to annex these territories. International organizations such as the European Union, NATO, OSCE and Western countries have condemned this decision of Putin [9].

Although everyone understood the complexity of the situation, working to regulate it was especially difficult when it came to the confrontation of the Russian Federation, a permanent member of the United Nations Security Council. As a result, the Russian Federation easily managed to escalate the situation by speculating and acting in various ways and committed many illegal actions between April and August.

The situation was getting worse and worse. It reached its peak in the middle of June 2008, when the explosions "in the vicinity of the villages under Georgian control - Kekvi, Ergneti, Tamarasheni and the Kokhati post of the de facto militia of South Ossetia" became more frequent. In June-July, the Russian military units mobilized in the border areas of Georgia, they refused all contact and strengthened road control [10]. After the end of the military exercises, they will still remain in the coastal areas of Georgia.

At the beginning of August, explosions and firefights were actively taking place [11]. Supporters of the separatists claimed that the units of the Russian army were "volunteers" who were ready to fight in "South Ossetia" against Georgia. Diplomatic negotiations continued between the Georgian and Russian sides, on August 7, Temur Yakobashvili, the State Minister of Reintegration of Georgia, the Russian Special Representative on the Georgian-Ossetian conflict, Ambassador Yuri Popov and the JPKF commander, Major General Marat Kulakhmetov, met. The goal of the meeting was to resolve the Georgian-Ossetian conflict and make peace decisions, but this did not bring any positive results [12].

The Russian Federation waged an active media war that Georgia was responsible for this armed conflict and spread false information.

Georgia's actions to protect itself from aggression were caused by the violation of the state border by the Russian army. After the Georgian side realized that the Russian army was moving towards Georgia through the Rock Tunnel and

through Abkhazia, it was able to take defensive measures. The right of a state to use force in self-defense is confirmed by Article 51 of the United Nations. Moreover, according to Article 51, the right of self-defense exists only on the basis of a military attack. There is no doubt that Georgia had such a right to self-defense, because, as we mentioned, regular attacks and explosions from the Russian Federation began already in June.

The war, which lasted from August 7-12, was fought by all means, including cyber-warfare, airstrikes, naval attacks and ground means. Russia used all possible means to seize strategically important territories for the Georgian army and to act as a "peacekeeping force" sometimes in the form of victims. The entry of the military units of the Russian Federation into the territory of Georgia took place in violation of the norms recognized by international law.

In order for the Russian Federation to justify its military intervention on the territory of Georgia, it presented reasons for this: protection of Russian peacekeepers and Russian citizens in South Ossetia, humanitarian intervention, obligation to protect citizens [13]. All the reasons mentioned above are unjustified according to the norms of international law.

Conclusions. There is still no such type of authoritative body to evaluate Russia's actions in terms of law, which would have binding force to perform [13]. A new problem emerges here, that there are still no effective mechanisms for the enforcement of decisions in international law. Everything is based on the good faith of the states. This phenomenon is aggravated by the fact that the Russian Federation, as we mentioned, is a permanent member of the Security Council of the United Nations. The political wishes of the members always prevail over the effectiveness of the results. In 2008, on August 12, Georgia filed a lawsuit against the Russian Federation at the International Court of Justice of the United Nations [14]. Due to the fact that the Russian Federation did not recognize the court's jurisdiction, Georgia's claim could not relate to the violation of the norms of the law on the use of force [15].

The international community, which is constantly trying to prevent any military-armed conflict, declares inappropriate the action of any state, which is aimed at undermining the peace and security of the world. Rome Statute of International Criminal Court, which is aimed at eliminating by legal methods the type of crimes that are aimed at violating international peace and security [16]. Such a crime included the Crime of Aggression committed by the Russian Federation against the state of Georgia. According to the Rome Statute, the crime of aggression is defined as follows: "For the purpose of this Statute, "crime of aggression" means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations" [16] Nevertheless, Russia is not a member of the ICC, which allows it more to easily realize its own goals and to avoid the fulfillment of internationally assumed obligations.

In addition, the Russian Federation violates internationally recognized legal norms presented in the Helsinki Final Act of 1975, including violation of state territory, violation of sovereignty, non-fulfillment of contractual obligations, interference in internal affairs, violation of human rights. Regarding the latter, the victim states of the 21st century of the Russian Federation, Georgia and Ukraine, have a bitter experience. The actions of Russia and its supporting separatists during the civil war in Abkhazia in the 90s of the 19th century were evaluated by the Organization for Security and Cooperation in Europe as ethnic cleansing: ". They expressed their deep concern over "ethnic cleansing", the massive expulsion of people, predominantly Georgian, from their living areas and the deaths of large numbers of innocent civilians..." [17]. As for the conflict between Russia and Georgia in August 2008, more than 2,000 people, including military personnel and civilians, were killed in this conflict from the Georgian side [18].

16 years have passed since the 2008 Russia-Georgia war, Russia continues to occupy the territory of Georgia by moving square meters.

Today, the Russian Federation occupies more than 20% of the territory of Georgia. He is constantly trying to impose his imperial desires on neighboring countries. Unfortunately, Ukraine is also included among these countries. The Russia-Ukraine war, which has been going on since 2022, shows the civilized part of the world the conquering face of Russia [19].

The important settlement mechanisms that exist in the world today make the resolution of disputes and armed conflicts less effective. Although the mechanism is advanced compared to past centuries, it needs further refinement and development, especially in the era of the threat of using nuclear weapons.

Unfortunately, there are privileged countries whose interests prevail over world peace and security, and whose direct participation in the settlement of the conflict poses an even greater threat to the current situation. It is important that the peaceful settlement of state disputes and armed confrontations, preventing their further escalation and ensuring the guarantees of stable and peaceful development of humanity is still on the agenda of the world community. This is clearly confirmed by recent events, such as the Russia-Ukraine war.

It is necessary to refine and perfect the already existing mechanisms, to develop a more effective mechanism for enforcement of responsibility in international law, which should be reflected in the modernization of the system. Priorities that prevent the implementation of mechanisms should be eliminated. It is necessary for states to properly understand their authority before the international community and prevent such actions that deceive the international community about their personal wishes.

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БЕЗПЕРЕРВНА БОРОТЬБА ГРУЗІЇ З ОКУПАЦІЄЮ

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***Метою** статті є дослідження різноманітної боротьби Грузії за незалежність проти окупації як у минулому, так і в сьогоденні. **Методи дослідження:** обрана тема наукового дослідження вимагає використання різноманітних наукових методів і підходів для отримання якісних результатів. Тому для вирішення поставлених завдань були використані такі методи дослідження: аналіз; системний метод; аналітичний метод тощо. **Результати:** поряд з відновленням незалежності Грузії, країна веде постійну боротьбу з окупацією, протистояючи численним загрозам своєму суверенітету та територіальній цілісності. Ця стаття досліджує різноманітну боротьбу в Грузії, як минулу, так і теперішню. Важливо, що незважаючи на узгоджені зусилля щодо врегулювання ситуації, окупація продовжується, кидаючи пляму на надії країни на мир і стабільність. Фундаментальною метою грузинської стратегії було вдосконалення існуючих процедур боротьби з окупацією. Грузія працювала над покращенням своєї оборони та отриманням глобальної підтримки своєї справи через дипломатичні відносини та багатосторонню співпрацю. Однак постійний характер окупації зумовив необхідність ґрунтовного перегляду миротворчих процедур і стратегій, про що свідчить нинішня ситуація в Україні. Грузія сподівається покращити свою здатність виявляти та стримувати акти агресії шляхом посилення взаємодії з регіональними та міжнародними гравцями. Крім того, політика, яка сприяє обговоренню та примиренню, є критично важливими компонентами будь-якої довгострокової мирної угоди. **Обговорення:** стаття намагається зобразити триваючу боротьбу Грузії з окупацією за допомогою догматичного та порівняльно-правового аналізу. Цей підхід демонструє критичну необхідність постійного міжнародного залучення та підтримки. Грузія намагається подолати проблеми окупації та досягти свого бачення безпечного майбутнього, вдосконалюючи поточні процеси та сприяючи модернізації миротворчої системи.*

***Ключові слова:** окупація; Грузія; суверенітет; територіальна цілісність; миротворчість; дипломатія; глобальна підтримка; агресія; правовий аналіз; міжнародне залучення.*

Стаття надійшла до редакції 31.05.2024