

The Ethio-Eritrea Claims Commission on Use of Force: Issue of Self-Defense or Violation of Sovereignty

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Abstract : A decision that deals with international disputes, be it arbitral or judicial, has to properly reflect objectivity and coherence with existing rules of international law. This paper shows the decision of the Ethio-Eritrea Claims Commission on the *jus ad bellum* case is bereft of objectivity and coherence, which contributed a disservice to international law on many aspects. The Commission's decision that holds Eritrea in contravention to Art 2(4) of the UN Charter based on Ethiopia's contention is flawed. It fails to consider: the illegitimacy of an actual authority established over contested territory through hostile acts, the proper determination of *effectivites* under international law, the sanctity of colonially determined boundaries, Ethiopia's prior firm political recognition and undergirds to respect colonial boundary, and Ethio-Eritrea Border Commission's decision. The paper will also argue that the Commission confused Eritrea's right of self-defense with the rule against the non-use of force to settle territorial disputes; wherefore its decision sanitizes or sterilizes unlawful change of territory resulted through unlawful use of force to the effect of advantaging aggressions. The paper likewise argues that the decision is so sacrilegious that it disregards the ossified legal finality of colonial boundaries. Moreover, its approach toward armed attack does not reflect the peculiarity of the *jus ad bellum* case rather it brings about definitional uncertainties and sustains the perception that the law on self-defense is unsettled.

Keywords : armed attack, Eritrea, Ethiopia, self-defense, territorial integrity, use of force

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