

United States' Invasion of Panama in 1989: A Paradox

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Abstract: The study attempts a critical analysis of the reasons cited by America for her invasion of Panama in December 1989. It examines a plethora of arguments for and against the United States' thesis. The study concludes that the event may best be described as a paradox given the fact of its violation of certain principles of international law while it also brought relief to the traumatised and oppressed peoples of Panama under the tyrannical reign of terror of Manuel Noriega, the erstwhile maximum ruler of Panama.

Key words: Invasion, paradox, international law, violation, Panama

INTRODUCTION

On 20th December, 1989, President George Bush ordered about 26,000 U.S. troops into military combat in Panama christening it the "Operation Just Cause". At the end of the invasion, civilian death toll ranged between 4000 and 10,000 people while between 20,000 and 30,000 were rendered homeless. General Manuel Antonio Noriega, military leader of Panama was deposed while Guillermo Endara Galimany was installed as new President. Noriega was arrested, tried and later sentenced to 40 years imprisonment on 10 July, 1992 by an American Court sitting in Miami, Florida (The World Guide 1997:443).

RATIONALE FOR U.S. MILITARY INVASION OF PANAMA IN 1989

Four major reasons were cited by President George Bush to justify the U.S. invasion of Panama in 1989. They are:

- To ensure the integrity of the Panama Canal Treaty;
- To safeguard the lives of American citizens in Panama;
- To defend democracy in Panama
- To apprehend Manuel Noriega (Pickering, 1989; Nanda, 1990)

To ensure the integrity of the Panama canal treaty: The Panama canal treaty was signed in 1977 between the U.S. and Panama. The treaty gave the U.S. primary responsibility for defending the canal and allows the U.S. to deploy troops on Panamanian territory especially around the canal zone whenever a threat exists. The treaty also guarantees the return of the canal to Panama in 1999 (HughSeton, 1977). By granting the U.S.

extraterritorial rights over the canal zone, Rogers *et al.* (1968) argue that the treaty made Panama an American colony. It was not surprising, therefore, when America claimed that a general climate of insecurity and instability had been created by Noriega in Panama which may endanger the canal zone and hence the need to deploy U.S. troops to maintain order around the canal zone (Meachling, 1989).

To safeguard the lives of American citizens in Panama: About 35,000 U.S. citizens were resident in Panama as at the time of the invasion (Einaudi, 1989). The U.S. cited the ruthless killing and terrorising of unarmed U.S. soldiers that took place in the week preceding the invasion as acts of premeditated aggression against the U.S.

It was further claimed that over 1200 reported cases of harassment of U.S. military personnel by Noriega-controlled army had occurred between 1987 and 1989 (Onobrakpeya, 1989). The proclamation of a state of war with the U.S. government by Noriega on 15 December, 1989 and the subsequent killing of a U.S. marine stationed in Panama also infuriated the U.S. (Meachling, 1989 <http://definition/image:Mnoriega.jpg>) Bush had thus argued that he was forced to act in defence of American nationals in Panama whose lives may be endangered.

To defend democracy in Panama: Noriega was accused by Bush of attempting to scuttle the democratic experiment in Panama that was recently re-introduced in October, 1984 (<http://definition/image:Mnoriega.jpg>). The U.S. could no longer tolerate the various atrocities being perpetrated by Noriega in May 1989 elections. His thugs had beaten up some presidential candidates before he won the election fraudulently (U.S. News and World Report, 1991). Suppression of opposition may derail the nascent democracy in Panama. And since America would

not tolerate a totalitarian government in Panama then, she argued that she was only trying to reinforce democracy in Panama and thereby put a stop to various human rights violation going on then in Panama.

To apprehend general manuel Noriega: The United States, Ecuador and Venezuela accused Noriega of promoting and participating in international drug trafficking, drug racketeering and money laundering (<http://definition/image:Mnoriega.jpg>). In February 1988, Noriega was indicted by the U.S. Drug Enforcement Agency and Federal Grand Juries in Florida on drug charges. He was accused of accepting \$4.6 million bribe from the Medellin drug cartel for the use of Panama as a stop-over point in their notorious deals (The World Guide). As such, the U.S. submitted that Noriega had committed criminal offences punishable under international law. Prior to the drug indictment, Noriega had faced widespread local rebellion for political killings and electoral fraud in June 1989. Over 75,000 Panamanians took part in the demonstration. To the U.S., therefore, this was a clear indication that Noriega was no longer popular among Panamanians and hence, he should be removed from office.

ARGUMENTS FOR THE INVASION

- Protection of the Panama canal treaty is perhaps the most justifiable reason for the U.S. invasion of Panama in 1989. Brownlie (1990) submits that extra-territorial actions of a State may be deemed legal when they are meant to assert the dictates of a given treaty. According to him:

The governing principle is that a State cannot take measures on the territory of another state by way of enforcement of national laws... except under the terms of a treaty...

This suggests that all the various actions taken by the U.S. in the invasion may be legally justified given the terms of the Panama Canal Treaty of 1977.

- U.S. attempt to protect the lives of her citizens in Panama may also be justified. Shaw (1997) argues that a major exception to the non-intervention norm is for the protection of nationals living in a foreign country. This principle of self-defence is also supported by Article 51 of the U.N. Charter (Shaw, 1997). This right allows a State to take legitimate military actions of intervention to defend its citizens against pre-meditated attacks in foreign lands (Amstutz, 1995).

Given the established climate of intimidation and harassment directed against U.S. nationals in Panama as well as the declaration of a state of war against the U.S. by Panama on 15th December, 1989, the military invasion of Panama by the U.S. on 20th December, 1989 may be justified on grounds of self defence.

- The need to defend the nascent democracy in Panama by protecting Panamanians against human rights abuses by Noriega's administration also finds justification in law. According to Walzer (1977) military intervention in politics of other states is justified when undertaken to protect people from gross violations of human rights. Emmeric de Vattel also supported this view when he argued that:

To give help to a people who are defending their liberties against an oppressor by force of arms is only the part of justice and generosity.

Given the series of offensives launched against perceived and real opponents by Noriega including the killing of a leading critic, Hugg Spadafora, there is no doubt that the fundamental human rights of Panamanians were being infringed upon (<http://definition/image:Mnoriega.jpg>). Panamanian opposition to Noriega's reign of terror reached a climax in June 1989 when over 750,000 Panamanians out of a population of about 2 million staged a protest against the government (National Concord, 1988). Even after his deposition by America, Panamanians demonstrated against the diplomatic asylum granted Noriega by the Vatican Embassy in Panama, demanding his judgement for human rights violations. (<http://definition>).

U.S. humanitarian intervention also finds justification in the views of some experts. Nye (2000) for instance, argues that intervention may be justified if it promotes justice, namely, to depose dictatorial leaders and maintain order. Krauthammer (1985) also justifies humanitarian intervention when it was strategically necessary and when it has a high probability of success.

With the spate of Noriega's brutal repressive measures to suppress opposition, the invasion was really necessary to prevent the masses from suffering undue reprisals from government.

Tom Farer (Lilligh, 1979) also gave a tacit approval to the U.S. humanitarian intervention in Panama. The invasion satisfies basic criteria suggested by him for judging the legality of humanitarian interventions. Such criteria include:

- That there be an immediate and extensive threat to fundamental human rights;

- That all other remedies for the protection of those rights have been exhausted; and
- That the intervention be of limited duration.

Without much sweat, criteria and above were met. As for criterium, The U.S. and O.A.S. states had passed a resolution condemning Noriega's electoral abuses. They also sent a powerful delegation of Latin American foreign diplomats to persuade Noriega to step down from power during the heat of revolts that greeted his election victory in May 1989. The effort however, proved futile.

American President Jimmy Carter in an address to the U.N. in 1977, justifying humanitarian intervention in the politics of other states also noted that:

All the signatories of the United Nations Charter have pledged themselves to observe and respect basic human rights. Thus, no member... can claim that mistreatment of its citizens is solely its own business. (Lilligh, 1979).

His view was further buttressed by the declaration of the International League of Human Rights Conference that:

The Universal Declaration of Human Rights, as well as various human rights treaties, also establishes international standards and commitments by nations of the U.N.

The conference concludes that:

Calling upon a nation to respect those standards must not be seen as inappropriate interference in its internal affairs but as furthering compliance with international standards and world order.

Furthermore, Stone (Lilligh, 1979) also argues that it is justifiable to use armed intervention to further international humanitarian rights norms. Reisman had a similar opinion when he stated that humanitarian intervention would lend credence to the purposes of the U.N.

Judging from the above submissions, one may argue that the U.S. was justified for invading Panama in 1989.

- For apprehending Noreiga and for subjecting him to trial for international financial crimes and drug trafficking, the U.S. may also be justified for the invasion of Panama in 1989. It should be the duty of all U.N. members to ensure conformity with its laws and conventions. The U.S. had thus argued that she had only provided the lead in an attempt to ensure compliance with U.N. Convention on Narcotic Drugs.

ARGUMENTS AGAINST THE INVASION

Despite the various arguments in favour of the invasion, the invasion may still be faulted in a number of ways.

- One of the arguments that may be propounded against the invasion is that the act negates and violates the fundamental principles of international law. The principles of mutual respect, equality of nations and non-interference in politics of other states are the basis for world peace and security. No state is, therefore, permitted to use military force outside its own shores as this constitutes a threat to world peace. This is explicitly stated in Article 2, paragraph 4 of the U.N. Charter that

All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state...

Reinforcing this position, the U.N. Declaration Banning Interference in the Internal Affairs of States adopted on 21 December, 1965 states among other things that:

No state has the right to intervene directly or indirectly for any reason whatever, in the internal affairs of any other state... (Petkovic, 1981).

It need be stated that the United Nations Security Council (UNSC) emerges as the only vehicle of force as guardian of world peace and security as specified in Article 42 of the U.N. Charter (Aremu, 2001). Following from the above, it is clear that the U.S. armed invasion of Panama is impermissible as it violates the basic principles of contemporary international legal order.

- A flaw may also be noted in the U.S. argument of protecting the integrity of the Panama Canal Treaty. Given the strategic importance of the Canal to U.S. trade and defence (Rogers *et al.*, 1968) and with the transfer of the canal zone to Panama fast approaching, one may rightly suggest that the U.S. invaded Panama only as a pretext to ensure her continued control, domination and exploitation of Panama in her own interest. This perhaps explains why Bush installed a compliant government in pursuance of U.S. foreign policy objectives in Latin America as she did against Jacob Arbenz in Guatemala. Also in 1965, she sponsored the removal of Juan Bosch from office in the Dominican Republic.
- Another criticism that may be levelled against the U.S. action in Panama is that her claim to defend democracy in Panama is at variance with the principle of self-determination of peoples and nations. Mills (1968), Walzer (1977) and Petkovic (1981) agree to the fact that military intervention in the politics of other states negates their legitimate rights to self-growth and self-determination. Walzer (1977) argues further that there are things that no state or people can do

for other countries. Hence, to him, “tyranny may be harmful and democracy beneficial, but states must determine their own political practices and institutions.”

This right to self-determination of peoples has been reiterated in various U.N. resolutions and declarations. Firstly, the U.N. Resolution 1514 (XV) adopted in 1960 stressed *inter alia* that:

All peoples have the right to self-determination. By virtue of that right, they freely determine their political status, economic, social and cultural development (Shaw, 1997).

In the same vein, the UN Declaration Banning Interference in the Internal Affairs of States of 21 December, 1965 states, among other things, that:

Every state had an inalienable right to choose its political ... systems without interference in any form by another state (Petkovic, 1981).

The U.N. Declaration on Principles of International Law of 1970 also stressed that all states were under a duty “to refrain from any forcible action which deprives people of their right to self-determination (Shaw, 1997).

Judging from the above submissions, the U.S. purported attempt to defend democracy in Panama may be declared null and void with respect to the principle of self-determination.

- The deposition, arrest, trial and imprisonment of Manuel Noriega may also be seen as a bunch of illegality. Relying on one of the provisions of the 1965 U.N. Declaration Banning Interference in the Internal Affairs of States (earlier cited) that:
... no state shall organise, assist, foment, incite or tolerate subversive terrorist, or armed activities directed towards the violent overthrow of the regime of another state, or interfere in civil strife in another state;

One may rightly suggest that the deposition of Manuel Noriega by the U.S. violates basic provisions of international law. Even for subjecting Noriega to trial in an American Court, outside his home state where he committed the offences specified in the charges brought against him, is also an illegality.

- For invading Panama, the U.S. may also be accused of practising gun-boat diplomacy and philosophy of “might is right”. Great powers of the world possessing political, military and economic strengths, have continued their hegemony and domination over relatively weak nations of the world. They have thus found it comfortable to violate international law with impunity.

CONCLUSION

Given the myriad of arguments for and against the U.S. invasion of Panama in 1989, passing a moral judgement on the legality or otherwise of the action becomes a dilemma. The event is indeed paradoxical. For one, the action pleased a majority of Panamanians for it freed them from the tyrannical and oppressive rule of Manuel Noriega. On the other hand, however, the action negates various basic principles of international law.

One may therefore, conclude that oppressed peoples of the world whose fundamental human rights are being trampled upon should not be left at the mercies of their tyrannical rulers. For this reason, advanced and powerful nations of the world should take it upon themselves, within the limit of the law, to defend the rights of the minorities and oppressed peoples given the circumstantial evidence that may be available from time to time in individual cases and instances.

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