

Recourse to Force

*State Action Against Threats
and Armed Attacks*

THOMAS M. FRANCK

HERSCH LAUTERPACHT MEMORIAL LECTURES



Recourse To Force State Action Against Threats And Armed Attacks

Marc Weller



Recourse To Force State Action Against Threats And Armed Attacks:

Recourse to Force Thomas M. Franck, 2002 In this book Professor Franck tracks various conflicts since 1945 which have contributed to the extensive interpretation of the UN Charter by the UN's principal political institutions He examines the law pertaining to the use of force against subversion and terrorism and the need to balance peace with justice Risk and the Regulation of Uncertainty in International Law Monika Ambrus, Rosemary Rayfuse, Wouter Werner, 2017-08-25 Increasingly international legal arrangements imagine future worlds or create space for experts to articulate how the future can be conceptualized and managed With the increased specialization of international law a series of functional regimes and sub regimes has emerged each with their own imageries vocabularies expert knowledge and rules to translate our hopes and fears for the future into action in the present At issue in the development of these regimes are not just competing predictions of the future based on what we know about what has happened in the past and what we know is happening in the present Rather these regimes seek to deal with futures about which we know very little or nothing at all futures that are inherently uncertain and even potentially catastrophic futures for which we need to find ways to identify conceptualise manage and regulate risks the existence of which we can possibly only speculate about This book explores how the future is imagined articulated and managed across the various fields of international law including the use of force maritime security international economic and environmental law and human rights It investigates how the future is construed in these various areas how the costs of risk risk regulation risk assessment and risk management are distributed in international law the effect of uncertain futures on the subjects of international law and the way in which international law operates when faced with catastrophic or existential risk Self-Defence in International and Criminal Law Onder Bakircioglu, 2011-05-11 Drawing from scholarship across law history politics and philosophy Self Defence in International and Criminal Law provides a broad and interdisciplinary approach to the doctrine of self defence in both domestic criminal and international law It focuses on the requirement of imminence which deals with the question of when individuals or States may legitimately resort to defensive force against a serious danger or harm In both national and international law the imminence requirement if strictly applied renders any defensive measure taken in anticipation of a would be attack illegal Recently however attempts have been made to relax the temporal requirement of the self defence doctrine imminence with a view to allowing individuals or States to employ deadly force to arrest an anticipated threat when they believe that using pre emptive lethal force would be the only way to thwart an expected harm In domestic criminal law it has been argued that it is necessary to relax the rule of imminence in domestic violence cases where women employ lethal force against their abusive partners when there is no imminent threat to justify defensive force At the international level while there has long been controversy as to the justifiability of pre emptive force in non confrontational settings following the September 11 attacks the Bush Administration's war on terror policy radically shifted the focus from the notion of anticipation to that of prevention making it clear that if

necessary it would invoke unilateral force against emerging threats before they are fully formed The book surveys the roots role rationale and objectives of self defence and questions whether the requirement of imminence should be removed from the traditional contours of the self defence doctrine in national and international law **The Law Against War** Olivier Corten, 2021-07-29 Praise for previous edition a comprehensive meticulously researched study of contemporary international law governing the use of armed force in international relations Andrew Garwood Gowers Queensland University of Technology Law Review Volume 12 2 When this first English language edition of The Law Against War published it quickly established itself as a classic Detailed analytically rigorous and comprehensive it provided an indispensable guide to the legal framework regulating the use of force Now a decade on the much anticipated new edition brings the work up to date It looks at new precedents arising from the Arab Spring the struggle against the Islamic State in Iraq and Syria and the conflicts in Ukraine and Yemen It also reflects the new doctrinal debates surrounding recent state practice Previous positions are reconsidered and in some cases revised notably the question of consensual intervention and the very definition of force particularly to accommodate targeted extrajudicial executions and cyber operations Finally the new edition provides detailed coverage of the concept of self defense reflecting recent interpretations of the International Court of Justice and the ongoing controversies surrounding its definition and interpretation *Anticipatory Action in Self-Defence* Kinga Tibori Szabó, 2011-08-22 The legality of preemptive strikes is one of the most controversial questions of contemporary international law At the core of this controversy stands the temporal dimension of self defence when and for how long can a state defend itself against an armed attack Can it resort to armed force before such an attack occurs Is anticipatory action covered by the rules of self defence or should it be treated as a different concept This book examines whether anticipatory action in self defence is part of customary international law and if so under what conditions The pre Charter concept of anticipatory action is demarcated and then assessed against post Charter state practice Several instances of self defence both anticipatory and remedial are examined to elucidate the rules governing the temporal dimension of the right The Six Day War 1967 the Israeli bombing of an Iraqi reactor 1981 the US invasion of Iraq 2003 and other instances of state practice are given thorough attention *Extraterritorial Use of Force Against Non-State Actors* Noam Lubell, 2010-05-27 This book examines the legality of the use of force by states against individuals and non state groups located beyond its borders in light of applicable international law The issues discussed include force used in the war on terror pre emptive self defence and targeted killings of individuals **Terrorism and the US Drone Attacks in Pakistan** Imdad Ullah, 2021-03-30 This book analyses the US drone attacks against terrorists in Pakistan to assess whether the pre emptive use of combat drones to kill terrorists is ever legally justified Exploring the doctrinal discourse of pre emption vis vis the US drone attacks against terrorists in Pakistan the book shows that the debate surrounding this discourse encapsulates crucial tensions between the permission and limits of the right of self defence Drawing from the long history of God given and man made laws of war this book employs

positivism as a legal frame to explore and explain the doctrine of pre-emption and analyses the doctrine of the state's rights to self-defence as it stretches into pre-emptive or preventive use of force. The book investigates why the US chose the recourse to pre-emption through the use of combat drones in the war on terror and whether there is a potential future for the pre-emption of terrorism through combat drones. The author argues that the policy to kill first is easy to adopt; however, any disregard for the web of legal requirements surrounding the policy has the potential to undercut the legal claims of an armed act. The book enables the framing and analysis of such controversies in legal terms as opposed to a choice between law and policy. An examination of the legal dilemma concerning drone warfare; this book will be of interest to academics in the field.

International Relations, Asian Politics, South Asian Studies and Security Studies in particular, global security law, new wars and emerging technologies of warfare.

Warfare in the Middle East since 1945 Ahron Bregman, 2017-05-15. From the end of the Second World War and throughout the era that came to be known as the Cold War, the Middle East was a battleground for Great Power rivalries and constant wars. These were fought between Israelis and Arabs, Arabs and Iranians, Arabs and Arabs, and also between regional players and outside powers. The region was also the scene of several intense civil wars and insurgencies. The essays gathered in this volume focus on some of the most important facets of these Middle Eastern conflicts. Following a general introduction, the essays are then organised under three major sections. The first focuses on the Arab-Israeli conflict, the second on the Gulf Wars, and the third section concentrates on insurgencies. Together, these essays, all of which were written by leading experts, will provide the reader with a good introduction to warfare in the modern Middle East and show how conflict has shaped the region.

The Case of Crimea's Annexation Under International Law Karolina WIERCZYŃSKA, 2017-02-15. This book addresses issues connected with Russia's 2014 annexation of Crimea that are both of key current relevance and crucial from the point of view of both international law and international relations. It not only offers a comprehensive elaboration of the subject but also presents it from the points of view of states directly engaged in the conflict. For the authors in this book include researchers from many European countries, albeit first and foremost from both Ukraine and Russia. In this way, the collected work represents a contribution of undoubted value where the ongoing international debate on the Crimean annexation is concerned. From the review by Prof. Anna Wyrozumska. This book offers an interesting, holistic and competent contribution to legal analysis surrounding Russia's annexation of Crimea, the consequences thereof, and the responsibility in international law therefor. It is characterised by a high level of legal analysis by a competent international team of authors led by Polish experts on the subject, whose painstaking selection of co-authors has allowed for an airing of both Ukrainian and Russian standpoints. From the review by Prof. Jerzy Kranz. Książka stanowi wspólnie przedsięwzięcie Wydawnictwa Naukowego Scholar i Centrum Polsko-Rosyjskiego Dialogu i Porozumienia. <http://cpr.dip.pl>. Book published in co-edition with The Centre for Polish-Russian Dialogue and Understanding. <http://cpr.dip.pl>.

Humanitarian Countermeasures Cathrine Crämer, 2024-08-01. If humanitarian intervention is indeed an unacceptable assault on

sovereignty how should we respond to a Rwanda to a Srebrenica to gross and systematic violations of human rights that offend every precept of our common humanity Kofi Annan This question asked by Kofi Annan over twenty years ago has not lost its relevance since as for instance demonstrated by the paralysis of the Security Council in the face of the continued use of chemical weapons by the Syrian regime against its own population The present work addresses the question of whether the unilateral use of force by states for humanitarian purposes hence without a Security Council authorization could be justified via the concept of humanitarian countermeasures In this context humanitarian countermeasures are derived from the notion of countermeasures which stems from the law of state responsibility as conceived in Art 49 et seq DARS and traditionally only refers to peaceful bilateral measures The core of the study is to open up countermeasures to humanitarian military action discuss the legal feasibility of such an approach while effectively containing the potential for abuse by establishing a legal framework In a final step concrete conditions for humanitarian countermeasures are defined which can guide a reinterpretation of countermeasures and the further development of customary law About the author Cathrine Cr mer studied law at the Humboldt European Law School at the HU Berlin the Universit Paris II Panth on Assas Ma trise en Droit in Private International Law and at King s College London LL M in Transnational Law She obtained her doctorate at the LMU Munich where she worked as a research assistant and taught public international law Cathrine Cr mer is currently a legal trainee at the Permanent Mission of Germany to the United Nations in New York

Exceptions in International Law Lorand Bartels, Federica Paddeu, 2020 Exceptions to international obligations can be expressed in several ways and be of fundamental practical importance Drawing from legal philosophers and scholars of international law this volume provides theoretical frameworks to the understanding of such exceptions and applies these frameworks to specific areas of international law

The Security Council and the Use of Force Niels M. Blokker, Nico Schrijver, 2005 This book addresses the authority of the UN Security Council to regulate the use of force In particular it examines the question of whether the present composition functions and powers of the Security Council are adequate to meet recent demands such as the need perceived by states to use force in cases of humanitarian emergency and pre emptive action in response to international terrorism and the proliferation of weapons of mass destruction Is the Security Council still well positioned today to deal with these demands and challenges In seeking a response the book analyzes both Charter law and Security Council practice It addresses not only the hotly debated recent crises concerning Kosovo Afghanistan and Iraq but also resolutions dealing with the use of force by peacekeeping operations A number of issues relating to the right of self defence are analyzed as are the emerging new roles of NATO and the African Union Separate chapters of the book are devoted to the current discussion concerning the reform of the Security Council A particular feature of the book is the interaction between academics and practitioners as well as between theory and reality

The Use of Force in International Law Tom Ruys, Olivier Corten, Alexandra Hofer, 2018-04-26 The international law on the use of force is one of the oldest branches of

international law It is an area twinned with the emergence of international law as a concept in itself and which sees law and politics collide The number of armed conflicts is equal only to the number of methodological approaches used to describe them Many violent encounters are well known The Kosovo Crisis in 1999 and the US led invasion of Iraq in 2003 spring easily to the minds of most scholars and academics and gain extensive coverage in this text Other conflicts including the Belgian operation in Stanleyville and the Ethiopian Intervention in Somalia are often overlooked to our peril Ruys and Corten's expert written text compares over sixty different instances of the use of cross border force since the adoption of the UN Charter in 1945 from all out warfare to hostile encounters between individual units targeted killings and hostage rescue operations to ask a complex question How much authority does the power of precedent really have in the law of the use of force

Institutionalizing State Responsibility Vincent-Joël Proulx, 2016-05-06 Since the 9 11 attacks international organizations have become actively engaged in devising counterterrorism strategies and frameworks This monograph examines the role UN organs can play in implementing the law of State responsibility in global security contexts using transnational terrorism as its principal case study The institutional mechanisms utilized by the UN in implementing State responsibility are assessed in detail shedding light on how the ICJ the General Assembly and the Security Council contribute to the implementation of State responsibility in the context of global security By acknowledging the Security Council's role as a post 9 11 legislator this book argues that the Council can play an important and sometimes determinant role in implementing a State's legal responsibility for failing to prevent terrorism both inside and outside the Chapter VII framework Featuring a discussion of the more controversial consequences flowing from State responsibility this monograph also explores the prospect of injured States adopting forcible measures against responsible States for their failures to prevent terrorism The book investigates whether self defence and other forcible reactions envisaged both inside and outside the Council can be reconciled with State responsibility principles

The Handbook of the International Law of Military Operations Terry D. Gill, Dieter Fleck, 2015-12-10 The second edition of this well received handbook provides a comprehensive overview and annotated commentary of those areas of international law most relevant to the planning and conduct of military operations It covers a wide scope of military operations ranging from operations conducted under UN Security Council mandate to collective self defence and consensual and humanitarian operations and identifies the relevant legal bases and applicable legal regimes governing the application of force and treatment of persons during such operations It also devotes attention to the law governing the status of forces military use of the sea and airspace and questions of international criminal responsibility for breaches of international law New developments such as cyber warfare and controversial aspects of law in relation to contemporary operations such as targeted killing of specific individuals are discussed and analysed alongside recent developments in more traditional types of operations such as peacekeeping and naval operations The book is aimed at policy officials commanders and their military legal advisors who are involved with the

planning and conduct of any type of military operation and is intended to complement national and international policy and legal guidelines and assist in identifying and applying the law to ensure legitimacy and contribute to mission accomplishment. It likewise fulfils a need in pertinent international organizations such as the UN NATO Regional Organizations and NGOs. It also serves as a comprehensive work of reference to academics and is suitable for courses at military staff colleges, academies and universities which devote attention to one or more aspects of international law treated in the book. This mix of intended users is reflected in the contributors who include senior former policy officials and military legal advisors alongside academics engaged in teaching and research in these areas of international law.

Necessity and Proportionality and the Right of Self-defence in International Law Chris O'Meara, 2021. The right of States to use force extraterritorially is conditioned by requirements of necessity and proportionality. This book provides a much needed detailed analysis of those requirements and a coherent and up to date account of the applicable contemporary international law in this field.

The Oxford Handbook of the Use of Force in International Law Marc Weller, Alexia Solomou, Jake William Rylatt, 2015. This Oxford Handbook provides an authoritative and comprehensive analysis of one of the most controversial areas of international law. Over seventy contributors assess the current state of the international law prohibiting the use of force, assessing its development and analysing the many recent controversies that have arisen in this field.

The Use of Force and International Law Christian Henderson, 2018-05-10. The Use of Force and International Law offers an authoritative overview of international law governing the resort to force. Looking through the prism of the contemporary challenges that this area of international law faces including technology, sovereignty, actors, compliance and enforcement, this book addresses key aspects of international law in this area: the general breadth and scope of the prohibition of force; what is meant by force; the use of force through the UN and regional organisations; the use of force in peacekeeping operations; the right of self defence and the customary limitations upon this right; forcible intervention in civil conflicts; the controversial doctrine of humanitarian intervention. Suitable for advanced undergraduate and postgraduate students, academics and practitioners.

The Use of Force and International Law offers a contemporary comprehensive and accessible treatment of the subject.

Iraq and the Use of Force in International Law Marc Weller, 2010-09-02. The prohibition of the use of force is one of the most crucial elements of the international legal order. Our understanding of that rule was both advanced and challenged during the period commencing with the termination of the Iran Iraq war and the invasion of Kuwait and concluding with the invasion and occupation of Iraq. The initial phase was characterized by hopes for a functioning collective security system administered by the United Nations as part of a New World Order. The liberation of Kuwait in particular was seen by some as a powerful vindication of the prohibition of the use of force and of the UN Security Council. However, the operation was not really conducted in accordance with the requirements for collective security established in the UN Charter. In a second phase, an international coalition launched a humanitarian intervention operation first in the north of Iraq and subsequently in the south.

That episode is often seen as the fountainhead of the post Cold War claim to a new legal justification for the use of force in circumstances of grave humanitarian emergency a claim subsequent challenged during the armed action concerning Kosovo There then followed repeated uses of force against Iraq in the context of the international campaign to remove its present or future weapons of mass destruction potential Finally the episode reached its controversial zenith with the full scale invasion of Iraq led by the US and the UK in 2003 This book analyzes these developments and their impact on the rule prohibiting force in international relations in a comprehensive and accessible way It is the first to draw upon classified materials released by the UK Chilcot inquiry shedding light on the decision to go to war in 2003 and the role played by international law in that context

International Law and Transnational Organized Crime Pierre Hauck, Sven Peterke, 2016

Examining the various sources of law that form this area of growing academic and practical importance International Law and Transnational Organised Crime provides readers with a thorough understanding of the key concepts and legal instruments in international law governing transnational organised crime

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