

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

Philippe Sands



Recourse To Force State Action Against Threats And Armed Attacks:

Recourse to Force Thomas M. Franck, 2002-10-24 The nations that drafted the UN Charter in 1945 clearly were more concerned about peace than about justice As a result the Charter prohibits all use of force by states except in the event of an armed attack or when authorised by the Security Council This arrangement has only very imperfectly withstood the test of time and changing world conditions In requiring states not to use force in self defence until after they had become the object of an actual armed attack the Charter failed to address a growing phenomenon of clandestine subversion and of instantaneous nuclear threats Fortunately although the Charter is very hard to amend the drafters did agree that it should be interpreted flexibly by the United Nations principal political institutions In this way the norms governing use of force in international affairs have been adapted to meet changing circumstances and new challenges The book also relates these changes in law and practice to changing public values pertaining to the balance between maintaining peace and promoting justice

Selbstverteidigung gegen nichtstaatliche Akteure Shpetim Bajrami, 2022-10-25 Staaten greifen zunehmend auf militärische Gewalt gegen nichtstaatliche Akteure zurück Ob und wie nichtstaatliche Akteure in das Selbstverteidigungsrechtsregime einbezogen werden können ist eine zentrale Frage des modernen Friedenssicherungsrechts Shpetim Bajrami untersucht den völkerrechtsdogmatischen Rahmen beleuchtet die methodischen Anforderungen an einen Rechtswandel und wertet anhand der entwickelten Massstäbe die Staatenpraxis insbesondere mit Blick auf die unwilling or unable Doktrin aus

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 Crämer studied law at the Humboldt European Law School at the HU Berlin the Universit Paris II Panthéon-Assas Master 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

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-à-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

The Law Against War Olivier Corten, 2010-10-18 The Law against War is a translated and updated version of a book published in 2008 in French *Le droit contre la guerre* Pedone The aim of this book is to study the prohibition of the use of armed force in contemporary positive international law Some commentators claim that the field has undergone substantial changes arising especially since the end of the Cold War in the 1990s More specifically several scholars consider that the prohibition laid down as a principle in the United Nations Charter of 1945 should be relaxed in the present-day context of international relations a change that would seem to be reflected in the emergence of ideas such as humanitarian intervention preventive war or in the possibility of presuming Security Council authorisation under certain exceptional circumstances The argument in this book is that while marked changes have been observed above all since the 1990s the legal regime laid down by the Charter remains founded on a genuine *jus contra bellum* and not on the *jus ad bellum* that characterised earlier periods The law against war as in the title of this book is a literal rendering of the familiar Latin expression and at the same time it conveys the spirit of a rule that remains without a doubt one of the cornerstones of public international law From the Foreword by Bruno Simma Corten's book is weighty not just by its size but above all through the depth and comprehensiveness with which it analyzes the entirety of what the author calls the law against war the *jus contra bellum* Corten tackles his immense task with a combination of methodical rigour applying modern positivism and abstaining from constructions of a *lex ferenda* and great sensibility for the political context and the ensuing possibilities and limitations of the legal regulation of force

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

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 Current Status of Humanitarian Intervention in Need of Legal Clarification. Analysis of the Legal and Humanitarian Justifications for Intervening In Libya and the Inaction in Syria Yewande Abiodun, 2020-06-24 Master s Thesis from the year 2014 in the subject Law European and International Law Intellectual Properties grade DISTINCTION University of Hertfordshire Faculty of Law course International Law language English abstract In this thesis the concepts of Sovereignty non intervention and Humanitarian Intervention will gradually be unveiled especially in subsequent chapters The cases of Syria and Libya will serve as watershed for the theoretically unveiled concepts The principle of State Sovereignty plays a great role in the formation of international law as it sets a basic foundation on which the international society is built The natural supposition is that international order is best maintained if states respect one another s sovereignty by adhering to the norms of non intervention in the internal affairs of other states The modern idea of Sovereignty dates back to Ancient Rome in which all sovereign powers were bestowed on the Emperor It was deemed an absolute unified inalienable power based upon a voluntary but irrevocable contract

Zeitschrift für die gesamte Strafrechtswissenschaft , 2003 **Das Parlamentsheer** Dieter Wiefelspütz, 2005 **The Fog of Law** Michael

J. Glennon, 2010 A most timely contribution that provokes important reflections whatever one's perspective on the rule of law or the limits of international law This book deserves to be read widely in the United States and even more so beyond its shores to understand the politics of pragmatism Philippe Sands University College London **Chicago Journal of International Law**, 2005 The Chicago Journal of International Law is an interdisciplinary forum for discussion and analysis of international law and policy issues Lawless World Philippe Sands, 2005 Leading international lawyer Philippe Sands has been involved in high profile cases including Guantanamo and Pinochet In *Lawless World* he draws on disturbing material to show how America has reneged on agreements governing war torture and the environment with Britain often turning a blind eye or colluding in some of the worst violations In recent years America has abandoned the Kyoto Protocol and the Statute of the International Criminal Court ignored human rights standards at Abu Ghraib and disregarded the UN's prohibition on pre-emptive force Are we on the verge of a new world order where the most powerful nations can put aside the rules that no longer suit them BOOK JACKET Principles of International Law Sean D. Murphy, 2006 This volume provides a comprehensive and up to date survey of public international law with useful references throughout to classic and contemporary cases and scholarship It is designed as a stand alone text or as a complement to any of the major casebooks on the topic The first section of the book addresses the fundamental history and structure of international law the second section focuses on the interface of international law and national law and the final section presents the treaties and rules that comprise the major fields of international law human rights law of the sea international environmental law and more Features Benefits *International Law and Politics* Shirley V. Scott, 2006 Presenting the key documents of international law at the global level this collection encompasses the full spectrum of central issues The documents grouped in eight subject areas are foundations the use of force arms control international crime human rights humanitarian law the environment and the global commons Collected courses of the Hague Academy of International Law Hague Academy of International Law, 2009 **Human Rights** Christian Tomuschat, 2008 By combining conceptual analysis with an emphasis on procedures and mechanisms of implementation this volume provides a multidimensional overview of human rights After examining briefly the history of human rights the author analyses the intellectual framework that forms the basis of their legitimacy **Philip C. Jessup International Law Moot Court Competition** Association of Student International Law Societies, 1981 A Compilation of the Problems Judges Briefs Rules and leading written Memorials which comprise the Philip C Jessup International Law Moot Court Competition To be issued annually Peace Research Abstracts Journal, 2005 **Schriftenreihe**, 1952

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