



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

Jus Ad Bellum: Legal Grounds For The Use Of Armed Force Under International Law

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Manuscript Communication Number – IU/R&D/2026 – MCN0004673

Abstract

Jus ad bellum (the right to go to war) refers to the legal criteria for the legitimate use of force by a state. It sheds light on its development from the concept of just war to the present-day concept of the United Nations Charter which forbids the use of force under Article 2(4) and authorises its use only under two narrow exceptions: self-defence (under Article 51) and Security Council authorisation (under Chapter VII). The analysis of the doctrine, from ancient civilisations to the League of Nations and Kellogg-Briand Pact, and from the 1945 order to the present, outlines the principles of necessity, proportionality and immediacy that underlie the legitimacy of self-defence. The Charter framework continues to be the benchmark for regulating interstate violence, despite ongoing controversies, such as anticipatory action, humanitarian intervention, and force against non-state actors. The paper concludes that the regime's failure to enforce its rules has created gaps, and geopolitical tensions persist to this day as a test, but it is "the law of the land" for states to explain their decision to use force in public, which has a normative effect on preventing unilateral force use and maintaining collective security as an operating principle.

Keywords: Jus ad Bellum, Self-Defence, United Nations Charter, Use of Force, Collective Security

Introduction

Among the foundational doctrines of international law and just war theory, *jus ad bellum* holds a place of singular importance. At its core, it defines the threshold that must be crossed before a state can legitimately resort to armed force.¹ Its counterpart, *jus in bello*, deals with how wars must be fought once they are underway; *jus ad bellum* addresses the more fundamental question of whether any resort to arms is lawful in the first place. The doctrine's principal function is to restrain the unilateral use of force, confining it to a narrow range of permissible circumstances — most notably, where a state exercises its inherent right to defend itself against attack.²

The United Nations Charter serves as the primary treaty source for this body of law. Article 2(4) articulates a sweeping ban on the threat or use of force in international relations — a prohibition rooted in the post-Second World War commitment to placing state violence under collective legal governance.³ This ban is qualified but not abandoned by Article 51, which preserves each state's inherent right to defend itself — individually or in concert with allies — when an armed attack occurs against it. Together, these two provisions form the constitutional backbone around which customary international law on force has developed and continues to evolve.

The intellectual roots of the doctrine reach far back into the just war tradition, which has long sought to distinguish morally warranted recourse to armed conflict from the ethical rules governing how such conflict must be conducted.⁴ In its contemporary form, permissible force is shaped further by the principles of necessity and proportionality — each demanding that a defensive response be genuinely called for by circumstances and reasonably calibrated to the threat at hand. Controversy persists over the outer edges of *jus ad bellum* — particularly with regard to humanitarian intervention, anticipatory or pre-emptive military action, and the use of force against non-state armed groups.⁵ These debates raise recurring questions about what constitutes an 'armed attack', when defensive action may be triggered, and how much authority the Security Council should wield in authorising collective force under Chapter VII. The doctrine therefore remains a live and contested field of both scholarly inquiry and geopolitical argument.

Why Regulating the Right to Use Force Matters

Placing legal limits on the resort to armed force is not a matter of idealism — it is a practical necessity for maintaining order in international relations. Such limits serve several interconnected purposes: discouraging the outbreak of conflict, protecting the sovereign equality of states, and sustaining the broader conditions

¹David Kretzmer, "The Inherent Right to Self Defence and Proportionality in Jus Ad Bellum" 24 *European Journal of International Law* 235 (2013).

²Joop Voetelink, "Jus ad Bellum and Military Command", in Paul A. L. Ducheine, Michael N. Schmitt and Frans P. B. Osinga (eds.), *Targeting: The Challenges of Modern Warfare* 50 (T.M.C. Asser Press, The Hague, 2020).

³*Id.* at 55.

⁴James Turner Johnson, "Toward Reconstructing the Jus Ad Bellum" 57 *The Monist* 461 (1973).

⁵*Supra* note 2 at 240.

for peace. When effective constraints are absent, individual states may exploit that gap to resort to force opportunistically, with destabilising consequences for the international order and catastrophic costs for civilian populations. Several considerations underpin why effective regulation in this area is essential.

- ***Curbing Arbitrary Violence:*** Normative frameworks — most importantly the prohibition in Article 2(4) of the UN Charter — restrict permissible force to clearly defined situations, such as lawful self-defence or Security Council approval, thereby reducing the risk of wars driven by territorial greed or punitive impulses.⁶
- ***Protecting Sovereignty and Fundamental Rights:*** Legal constraints shield states' territorial integrity and political independence; they also increasingly serve as instruments for the protection of civilian populations and the enforcement of human rights norms.
- ***Building Predictability and Stability:*** Clearly articulated legal rules create predictability in how states relate to one another, discouraging unilateral military ventures and directing disputes toward peaceful resolution mechanisms.
- ***Ensuring Accountability and Legal Credibility:*** International law supplies institutional frameworks for holding violators accountable, reinforcing the legitimacy of collective responses to aggression and creating long-term incentives for compliance.

The shift from a world in which states enjoyed near-total freedom to wage war to the collective security architecture of the UN Charter ranks as one of the most transformative developments in the history of international law. Under the Westphalian model, sovereign states held an essentially unchallenged prerogative to initiate hostilities, a position that remained largely intact even as the nineteenth century saw the emergence of humanitarian limits on battlefield conduct through instruments like the Hague Conventions.⁷

The carnage of the First World War prompted the first serious multilateral efforts to restrict resort to armed conflict, reflected in the Covenant of the League of Nations (1919) and the Kellogg-Briand Pact (1928), though both suffered from serious enforcement weaknesses.⁸ The UN Charter (1945) brought about a more thoroughgoing transformation, enshrining a near-total prohibition on force subject only to self-defence under Article 51 and Security Council authorisation under Chapter VII.⁹ Despite the pressures of Cold War geopolitics and the emergence of new security challenges — including humanitarian crises, pre-emptive strikes, and threats from non-state actors — the Charter remains the foundational reference point for the

⁶Kirsten Allinson, "Review of Christian Henderson, *The Use of Force and International Law*" 32 *Leiden Journal of International Law* 605 (2019).

⁷Holly Pickering, *Why Do States Mostly Obey International Law?* 14 (Routledge, London, 2020).

⁸*Id.* at 22.

⁹Nicole Scicluna, "International Law and the Use of Force", in Nicole Scicluna (ed.), *The Politics of International Law* 181 (Oxford University Press, Oxford, 2021).

legal regulation of force. Contemporary debates are not about replacing that framework but about adapting it to shifting strategic realities.

Historical Development of Jus ad Bellum

The evolution of *jus ad bellum* — understood as both the moral and legal basis for resorting to war — traces a long arc across history, shaped by the changing interplay of theological doctrine, philosophical reasoning, and positive legal obligation. Its earliest traces appear in the classical civilisations of ancient Greece and Rome. Greek political thought connected the legitimacy of armed conflict to the welfare of the political community, while the Roman institution of the *jus fetiale*, administered by a priestly college, imposed formal conditions for lawful conflict, including territorial defence and the redress of treaty breaches.¹⁰ Even within these early frameworks, however, political calculation frequently overrode religious or ethical prescription.

The medieval period brought a deepening theological engagement with the ethics of war, particularly within Christian thought, which wrestled with the apparent tension between the imperative of peace and the practical necessity of coercion. St. Augustine, writing in the fifth century, argued that war could be morally permissible when aimed at correcting injustice or restoring a peace that had been violated.¹¹ This position was later given more systematic expression by St. Thomas Aquinas, who in the thirteenth century set out three cumulative conditions for a lawful war: the authority of a legitimate sovereign, the existence of a just cause, and a right intention on the part of those initiating hostilities.¹² Islamic jurisprudential tradition approached the matter differently, framing the concept of *jihad* as a religious duty tied to the protection and expansion of the community of believers — a framework that differed markedly in its emphasis from the procedural concerns of Christian just war doctrine.

The early modern period brought a decisive move toward secular reasoning. Thinkers such as Hugo Grotius, writing in the seventeenth century, sought to ground the ethics of war in universal natural law principles rather than divine command, arguing that resort to force was justified only in cases of self-defence, protection of property, or punishment of serious wrongs. The Peace of Westphalia of 1648 entrenched state sovereignty as the organising norm of international relations, which had the practical effect of marginalising moral constraints on going to war. European states nonetheless continued to deploy just war rhetoric instrumentally — most conspicuously in justifying colonial ventures as the imposition of 'civilisation' on peoples deemed unready for self-governance.

¹⁰Alvin Bernstein, "The Strategy of a Warrior State: Rome and the Wars against Carthage", in Williamson Murray, MacGregor Knox and Alvin Bernstein (eds.), *The Making of Strategy: Rulers, States, and War* 64 (Cambridge University Press, Cambridge, 1994).

¹¹Marcus Dods (ed.), *The Works of Aurelius Augustine, City of God*, Vol. II, para. 12 (T. & T. Clark, Edinburgh, 1931).

¹²Thomas Aquinas, *Summa Theologiae*, Vol. II.I, Q. 40, art. 1 (Blackfriars, London, 1964).

The nineteenth and early twentieth centuries saw concerted efforts to codify limits on armed conflict. The Hague Conventions of 1899 and 1907 regulated the methods and means of warfare but left largely unaddressed the question of what legal grounds permitted a state to resort to war in the first place. The League of Nations, established in 1919, introduced mandatory dispute resolution procedures and a cooling-off obligation before states could resort to force, but fell short of an outright prohibition on war — a loophole exploited by Japan in 1931, which characterised its occupation of Manchuria as an 'incident' rather than an act of war, and by Italy in 1935 during its campaign in Abyssinia. The Kellogg-Briand Pact of 1928 represented a more ambitious step, securing a formal renunciation of war as an instrument of national policy by sixty-two signatory states, though the absence of enforcement mechanisms and the vagueness of its self-defence clause substantially limited its practical effect.

The defining structural shift came with the adoption of the United Nations Charter in 1945, which for the first time imposed an unambiguous prohibition on the use or threat of force in international relations through Article 2(4), subject to the specific exceptions of self-defence under Article 51 and Security Council authorisation under Chapter VII. This framework sought to replace the discretionary, state-centric calculus of the earlier order with a system of collective governance in which the use of force required justification before the international community.

Tracing its arc from the sacred law of ancient Rome to the codified obligations of the UN Charter, *jus ad bellum* has undergone a profound normative transformation. Yet its application continues to generate controversy, reflecting the enduring tension between state interest and the shared imperative of international stability.

Just War Theory: Origins and Enduring Influence

Western thinking about when war is morally warranted owes a considerable debt to the theological and philosophical legacy of Augustine, whose engagement with the Roman imperial tradition helped shape subsequent understandings of the relationship between political authority, justice, and the legitimate use of violence. The tradition's underlying premise is that resort to war is permissible where the relevant conditions of both *jus ad bellum* and *jus in bello* are met, regardless of how the conflict ultimately ends.¹³ The intellectual history of just war theory spans centuries of engagement by philosophers, theologians, and legal scholars with the question of when violence can be morally justified. The tradition has pre-Christian roots, most visibly in Cicero's insistence in *De Officiis* that war must be confined to cases of self-defence or the punishment of serious wrongdoing. This heritage was later taken up and transformed by Augustine of Hippo, who maintained that war, though inherently tragic, might occasionally be morally permissible where

¹³Karen Lacourse and Peter Stone, "Rethinking the Foundations of Just War Theory" 23 *Ethical Theory and Moral Practice* 475 (2020).

undertaken with the right intention — the restoration of peace and the correction of grave injustice — rather than out of greed, pride, or vengeance.

The tradition reached its most systematic medieval formulation in the work of Thomas Aquinas, whose *Summa Theologica* identified three essential criteria for a just war: a just cause (such as the defence of the innocent), legitimate authority (confined to sovereign rulers rather than private individuals), and right intention (directed toward peace rather than domination).¹⁴ The early modern period saw the tradition extended and refined by scholars such as Francisco de Vitoria and Francisco Suárez, who applied its principles to the novel ethical challenges raised by European colonialism and the legal status of indigenous peoples. Hugo Grotius, writing in the seventeenth century, completed a decisive step in the secularisation of just war doctrine, anchoring its claims within a natural law framework that provided the intellectual foundations for modern international law.¹⁵ Contemporary *jus ad bellum* doctrine carries forward several core commitments of this tradition — among them the insistence that force be used only as a genuine last resort, that it offer a reasonable prospect of success, and that it be proportionate to the harm it seeks to prevent — serving as a continuing reminder that even armed conflict must be conditioned by standards of justice and restraint.

The League of Nations and Early Efforts to Limit War

The opening decades of the twentieth century marked a turning point in the normative regulation of recourse to war. The devastating mortality of the First World War generated unprecedented international pressure to curtail states' discretion to initiate armed conflict. The League of Nations, established in 1920, represented the first sustained institutional attempt at collective peacekeeping and imposed meaningful — if ultimately insufficient — limits on unilateral resort to warfare. The League Covenant placed a significant qualification on the doctrine of absolute sovereign discretion in matters of war by requiring member states to submit disputes to arbitral or Council procedures before resorting to hostilities (Articles 12 to 15). In doing so, it challenged the inherited assumption that states held an unqualified right to wage war at will, repositioning armed conflict as a measure of last resort rather than a routine instrument of policy.

In practice, however, the League's enforcement mechanisms — resting primarily on collective economic sanctions and diplomatic pressure — proved unequal to the task when major powers such as Japan (in its 1931 Manchurian campaign)¹⁶ and Italy (in its 1935–36 intervention in Abyssinia)¹⁷ chose to disregard their obligations. The Kellogg-Briand Pact of 1928 supplemented the League framework by securing a formal renunciation of war as an instrument of national policy, with sixty-two states — including the United States,

¹⁴Nikolaos Tzenios, "Case Study: Just War Doctrine" 13 *Open Journal of Political Science* 1 (2023).

¹⁵Nico Vorster, "Just War and Virtue: Revisiting Augustine and Thomas Aquinas" 34 *South African Journal of Philosophy* 55 (2015).

¹⁶United Nations Office at Geneva, League of Nations, available at: <https://www.un Geneva.org/en/about/league-of-nations> (last visited on May 18, 2026).

¹⁷Id.

Germany, and Japan — subscribing to that commitment. The Pact is often criticised as having been unduly idealistic, given its failure to define the scope of permissible self-defence and its lack of any enforcement machinery; yet it established, at least as a matter of declaration, that aggressive war had lost its claim to legal legitimacy.

The interwar experiments with collective restraint on force, despite their evident shortcomings, were formative in laying the groundwork for the post-1945 framework. The League's failures demonstrated the necessity of stronger institutional mechanisms for collective security and directly shaped the thinking of those who drafted the United Nations Charter, whose Article 2(4) enshrined a general prohibition on force subject only to self-defence or Security Council approval. The League's aspiration to bring armed conflict under legal and moral scrutiny thus became a constitutive element of the modern international legal order, even if the means it employed to realise that aspiration proved inadequate.

The unprecedented destruction wrought by the Second World War — some seventy million deaths and the spectre of nuclear annihilation — compelled a fundamental rethinking of the legal framework governing warfare. The transformations of 1945 were driven by three interconnected recognitions:

- **Accountability:** The Nuremberg Tribunal established the principle that heads of state could be held individually criminally responsible for the crime of aggression — characterised in the proceedings as the supreme international crime.¹⁸
- **Existential Risk:** The destructive capacity of nuclear weapons demonstrated that future large-scale conflicts could threaten the survival of civilised societies, making stricter constraints on the resort to force a matter of survival rather than preference.¹⁹
- **Sovereign Equality:** The accelerating process of decolonisation generated urgent demands for legal protections that would shield newly independent and smaller states from coercive interference by more powerful actors.

Article 2(4) of the UN Charter gave normative expression to these imperatives by establishing a near-comprehensive prohibition on force, with permissible exceptions confined to self-defence in response to an armed attack and action expressly authorised by the Security Council. Although Cold War dynamics repeatedly tested the framework, even the superpowers found it necessary to frame their uses of force within the Charter's vocabulary. The prohibition remains the cornerstone of contemporary international law on armed conflict — imperfect in its application, but indispensable as evidence that the international community has committed itself to treating war as a last resort rather than a routine instrument of statecraft.

The United Nations Charter Framework

¹⁸Jochen von Bernstorff, "The Rise and Fall of International Humanitarian Law", in Robin Geiss and Nils Melzer (eds.), *The Oxford Handbook of the International Law of Global Security* 553 (Oxford University Press, Oxford, 2021).

¹⁹Marek Hrubec, "Threat of Limited Nuclear War" 45 *Critical Sociology* 785 (2019).

The devastation of the Second World War catalysed a fundamental reconceptualisation of the place of armed force in international relations. War was no longer to be treated as an acceptable tool of statecraft available at the discretion of individual sovereigns. The United Nations Charter of 1945 established a transformative legal architecture governing the conditions under which force may lawfully be used. Central to this architecture is Article 2(4), which obliges all member states to refrain from threatening or using force against the territorial integrity or political independence of any state. This is not a merely aspirational declaration; it is a binding legal obligation that has profoundly shaped the conduct of international relations across nearly eight decades.

The Charter's drafters recognised, however, that an unconditional prohibition on force would be unworkable in practice. Two carefully delimited exceptions were therefore built into the framework. Article 51 preserves each state's inherent right of self-defence in the event of an armed attack, subject to the requirements of necessity and proportionality and the obligation to report immediately to the Security Council. This provision is not a licence for unconstrained retaliation; the defensive response must be calibrated to the threat confronted and must not exceed what is necessary to repel the attack. The 2001 military operations against Afghanistan, conducted by the United States, the United Kingdom, and allied states invoking the right of self-defence following the September 11 attacks, illustrated both the application of this provision and the interpretive controversies it can generate. Self-defence functions as a form of self-help within the international legal order and constitutes a well-established norm of customary international law, codified in Article 51.²⁰

Article 51 of the Charter provides as follows:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

The second exception is the collective security mechanism created by Chapter VII, which confers on the Security Council authority to authorise military action in response to threats to international peace, breaches of the peace, or acts of aggression. This framework embodies the principle that decisions on the use of force should rest with the international community acting collectively, rather than with individual states exercising unilateral judgment. When tensions escalate to the point of threatening international peace, the Council must

²⁰Michael N. Schmitt, "Responding to Transnational Terrorism under the Jus Ad Bellum: A Normative Framework", in Michael N. Schmitt, *Essays on Law and War at the Fault Lines* 49 (T.M.C. Asser Press, The Hague, 2011).

first make a determination under Article 39 as to whether the situation qualifies as a threat to the peace, breach of the peace, or act of aggression.²¹ Before military measures may be contemplated, the Council is required by Article 41 to consider all available non-military options, including economic sanctions and diplomatic measures.²² Only where such measures are demonstrably inadequate does Article 42 permit the authorisation of military action.²³ These sequenced responses — collectively referred to as Chapter VII operations — represent the international community's ultimate recourse when non-military means have been exhausted and peace is under direct threat.

Article 2(7) of the Charter simultaneously limits the scope of permissible intervention by prohibiting interference in matters essentially within the domestic jurisdiction of states. This protection has, on occasion, come into tension with the emerging norm of the responsibility to protect, which holds that mass atrocities cannot be shielded from international scrutiny behind the screen of sovereignty. The friction between the principle of non-intervention and this more recent humanitarian norm continues to generate controversy within the UN and among international lawyers.

Despite inconsistencies in its application — most conspicuously the capacity of permanent Security Council members to exercise the veto in ways that serve their own interests — the Charter framework has contributed substantially to the stabilisation of international relations. It has delegitimised wars of conquest, created forums for the peaceful resolution of disputes, and established normative standards against which state conduct is measured. As emerging security challenges — including cyber operations and transnational terrorism — press against the framework's conceptual limits, the architecture crafted in 1945 continues to adapt, demonstrating a normative resilience that its critics frequently underestimate.

Self-Defence under International Law

Regulating self-defence under international law requires striking a carefully calibrated balance: states must retain a meaningful capacity to protect themselves, while that same capacity must be sufficiently constrained to prevent it from being exploited as a pretext for aggression. The UN Charter achieves this balance through a structured framework with built-in safeguards. At the doctrinal core, international law recognises two distinct forms of lawful defensive action. The first is the straightforward right of a state to defend its own territory and population against external attack. The second is collective self-defence, under which a state may come to the assistance of an ally that has come under armed attack — the operative principle underlying mutual defence arrangements such as NATO. Both forms of defensive action are governed by three cumulative conditions.

²¹Charter of the United Nations, 1945, art. 39.

²²Charter of the United Nations, 1945, art. 41.

²³Charter of the United Nations, 1945, art. 42.

- **Necessity:** Defensive force is permissible only where no alternative course of action was reasonably available; there must have been no viable peaceful option that would have adequately addressed the threat.
- **Proportionality:** The scale and character of the defensive response must be commensurate with the armed attack that triggered it; excessive retaliation falls outside the protection of Article 51.
- **Immediacy:** The defensive action must bear a sufficiently close temporal relationship to the attack; an undue delay may sever the causal nexus required to characterise the action as genuine self-defence.

These conditions were not derived from abstract theory; they represent the distilled lessons of historical experience, designed to ensure that states pause to consider alternatives before resorting to force while preserving an effective capacity for protection. In the contemporary security environment — characterised by cyber threats, proxy conflicts, and transnational armed groups — these principles are being tested and reinterpreted in ways that the earlier framers of the law could not have anticipated.

Among the most contested questions in contemporary *jus ad bellum* scholarship is the temporal dimension of self-defence: how imminent does a threat need to be before a defensive response is lawful? The traditional interpretation — sometimes called the 'strict' or 'reactive' approach — holds that military force may be used only after an armed attack has actually occurred. This reading, grounded in the text of the Charter, has provided a measure of certainty and restraint that has contributed to international stability. Modern threat environments, however, have led states and commentators to advocate for expanded doctrines of self-defence that would permit defensive action at earlier stages.²⁴

Three such expansions have attracted varying degrees of support in state practice and legal scholarship:

- **Preventive Self-Defence:** This doctrine contemplates the use of force to neutralise a potential future threat, even without evidence that an attack is imminent. Critics have noted that it risks legitimising aggression on the basis of vague or speculative pretexts — a concern powerfully illustrated by the widely condemned 2003 invasion of Iraq.²⁵
- **Anticipatory Self-Defence:** A more restrained formulation, this doctrine permits pre-emptive military action where a threat is clearly imminent — for example, where there is unambiguous evidence of an impending attack. Israel's resort to force in the 1967 Six Day War was defended on this basis, though its legal status under the Charter remains contested.
- **Interceptive Self-Defence:** This concept addresses situations in which an attack is already under way — such as incoming ballistic missiles — but has not yet reached its target. Positioned between

²⁴Natalia Ochoa Ruiz and Esther Salamanca Aguado, "Exploring the Limits of International Law relating to the Use of Force in Self Defence" 16 *European Journal of International Law* 499 (2005).

²⁵Mary Ellen O'Connell, *The Myth of Preemptive Self Defence* 1 (American Society of International Law, Washington D.C., 2002).

the reactive and anticipatory models, it has gained broader acceptance, subject to the condition that compelling evidence of necessity be demonstrated.

The International Court of Justice's judgment in *Oil Platforms (Iran v. United States)* (2003) offers an instructive judicial examination of the self-defence doctrine in the context of attacks on economic infrastructure. The dispute arose from the destruction by United States naval forces of three Iranian oil platforms in 1987 and 1988, during the so-called 'Tanker War' phase of the Iran-Iraq armed conflict.

The platforms in question were commercial installations operated by the National Iranian Oil Company, not military facilities, which raised acute questions about the permissible scope of self-defence targeting. Iran's litigation strategy was notably creative: rather than relying on general international law, it founded jurisdiction on an obscure 1955 Treaty of Amity between the two states — a Cold War-era instrument that, despite the complete rupture of diplomatic relations following Iran's 1979 revolution, retained its legal force by virtue of its dispute resolution clause. The Court ultimately held that the United States actions could not be justified as measures necessary to protect its essential security interests, finding that the destruction of the platforms did not satisfy the requirements of self-defence under international law. In the Court's words:

*the actions carried out by United States forces against Iranian oil installations on 19 October 1987 and 18 April 1988 cannot be justified, under Article XX, paragraph 1(d), of the 1955 Treaty, as being measures necessary to protect the essential security interests of the United States, since those actions constituted recourse to armed force not qualifying, under international law on the question, as acts of self-defence, and thus did not fall within the category of measures contemplated, upon its correct interpretation, by that provision of the Treaty.*²⁶

Security Council Authorisation of Force

Upon joining the United Nations, member states accept a fundamental obligation to refrain from threatening or using force in ways that are incompatible with the Charter's purposes or that infringe on the sovereignty of other states. Recognising that an absolute prohibition on force would be impracticable given the realities of international politics, the Charter establishes a nuanced governance architecture designed to balance state autonomy with collective oversight. This architecture rests on two principal pillars:

- **Individual and Collective Self-Defence (Article 51):** States retain an inherent right to defend themselves against armed attacks without awaiting prior Security Council approval. This right functions as an emergency exception and extends equally to collective arrangements under which states may come to the defence of an ally that has been attacked.²⁷

²⁶*Oil Platforms (Iran v. United States of America)*, Judgment, I.C.J. Reports 2003, p. 161, para. 78.

²⁷Erik Voeten, "The Political Origins of the UN Security Council's Ability to Legitimize the Use of Force" 59 *International Organization* 527 (2005).

- **Collective Security under Chapter VII:** The Security Council functions as the institutional guardian of international peace and security, empowered to authorise military action in response to threats to the peace, breaches of the peace, or acts of aggression. This mechanism creates a multilateral pathway for the authorisation of force, insulating it from the charge of unilateral aggression.²⁸

The two-channel system reflects a pragmatic recognition that no body of rules can anticipate every contingency. By providing both an emergency self-help mechanism and a deliberative collective authorisation process, the Charter tries to maintain global order while preserving the flexibility needed for legitimate protection. The Council's mediating role becomes especially important in cases of contested self-defence claims, where collective deliberation may yield a more objective assessment of the legality of proposed military action.

The normative logic of this framework lies in its displacement of absolute prohibitions with structured governance procedures. Rather than treating the non-use of force as an inviolable rule, it creates processes through which the use of force may be legitimised where genuinely necessary and restrained where merely convenient. The practical implication is that even the most powerful states are required, at least formally, to seek multilateral authorisation for major military operations, while weaker states gain the assurance of a system committed to treating aggression against them as a matter of collective concern.

Conclusion

The history of *jus ad bellum* reflects humanity's long struggle to bring war under legal control. Today's framework rests on a simple but powerful idea: force is prohibited unless clearly justified. Self-defence and Security Council approval remain the only lawful exceptions. Yet applying these rules is rarely straightforward — powerful states bend them, vetoes protect allies, and new threats like cyberattacks have no clear answers in existing law. Still, the framework matters. Governments now feel obligated to justify military action publicly, which itself is progress. The real challenge ahead is keeping these rules credible as warfare continues to evolve.

²⁸Id. at 535.