

SELF-DEFENCE AS A CIRCUMSTANCE PRECLUDING INTERNATIONAL RESPONSIBILITY

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Abstract

This study examines self-defence as a circumstance precluding international responsibility under public international law. It aims to clarify the concept of self-defence, trace its historical development, and analyse the legal conditions governing its exercise and its implications for the international responsibility of States. The study adopts a descriptive and analytical approach, focusing primarily on the relevant provisions of the Charter of the United Nations, particularly Articles 2(4) and 51, as well as Article 21 of the International Law Commission's 2001 Articles on Responsibility of States for Internationally Wrongful Acts. It also considers the contribution of international jurisprudence and legal scholarship to defining the scope and limits of this right. The study addresses the principal conditions associated with an armed attack and the requirements governing defensive action, including necessity, proportionality, the relationship between the response and the source of the attack, and the temporary nature of self-defence pending Security Council intervention. It highlights the distinction between the lawful exercise of self-defence and the unlawful use of force under the pretext of defending a State. The study concludes that self-defence may preclude the wrongfulness of a State's conduct and consequently its international responsibility only when the applicable legal conditions are satisfied. It also emphasises the importance of precise legal interpretation, effective international oversight, and respect for the principles of necessity, proportionality, and good faith to prevent the abuse of self-defence and safeguard international peace and security.

Keywords: Self-defence; International Responsibility; State Responsibility; Use of Force; Armed Attack; Necessity and Proportionality; United Nations Charter; International Law Commission.

Introduction

The principle of international responsibility is one of the fundamental principles on which public international law is based. A State incurs international responsibility when it commits an act that constitutes a breach of an international obligation incumbent upon it, whether that act consists of a positive action or an omission to do something it was required to do. However, international law, like other branches of law, does not treat responsibility as absolute. Rather, it recognises a set of circumstances that may preclude the wrongfulness of an act, even where the act appears to violate an existing international obligation.

One of the most important of these circumstances is self-defence, which constitutes a significant exception to the principle prohibiting the use of force in international relations. This principle has acquired particular importance under the contemporary international system, especially following the establishment of the United Nations and the adoption of its Charter in 1945. Article 2(4) of the Charter enshrined the prohibition on the threat or use of force in international relations, while Article 51 recognised, in turn, the right of States to defend themselves in the event of an armed attack.

In its contemporary meaning, self-defence allows a State that has been attacked to use force exceptionally and temporarily in order to repel the attack against it, until the Security Council intervenes and takes the measures necessary to maintain or restore international peace and security. Self-defence has therefore become one of the principal exceptions to the rule prohibiting the use of force in international law.

Self-defence has received considerable attention in international legal scholarship and jurisprudence because it raises legal questions concerning its limits and the conditions governing its exercise, particularly the existence of an armed attack, the requirement that the use of force be proportionate to the danger to be averted, and the necessity of the measures taken to repel the attack. The importance of the subject is not confined to the use of force; it also extends to the international responsibility of States. Where self-defence is exercised in accordance with the conditions established by international law, the wrongfulness of the act is precluded and international responsibility for that act therefore does not arise.

The International Law Commission confirmed this approach in its 2001 Articles on Responsibility of States for Internationally Wrongful Acts. Article 21 provides that the wrongfulness of an act of a State is precluded if the act constitutes a lawful measure of self-defence taken in conformity with the Charter of the United Nations. This provision reflects the close relationship between the regime of self-defence and the law of international responsibility: a State's use of force does not necessarily entail its international responsibility where that use of force is based on the right of self-defence and satisfies the applicable legal conditions.

First: Reasons for Selecting the Topic

The selection of self-defence as a circumstance precluding international responsibility is attributable to several considerations, foremost among them the legal significance of the subject within public international law, given that self-defence constitutes an exception to the fundamental principle prohibiting the use or threat of force in international relations.

The subject is also particularly important in view of the numerous international disputes concerning the lawfulness of the use of armed force and the resulting differences in the interpretation of the conditions and limits of self-defence. In addition, linking self-defence with international responsibility makes it possible to understand the circumstances in which an act by a State, despite appearing to breach an international obligation, may be lawful and may not give rise to international responsibility.

Second: Importance of the Topic

From a theoretical perspective, studying self-defence as a circumstance precluding international responsibility clarifies one of the most important exceptions that international law recognises to the prohibition on the use of force. It also helps define the relationship between the rules governing the use of force and those governing international responsibility.

From a practical perspective, the subject is important in light of the continuing occurrence of international armed conflicts and the many situations in which States invoke their right of self-defence to justify resorting to armed force. It is therefore necessary to identify the legal conditions and controls governing this right in order to distinguish lawful self-defence from the unlawful use of force.

Third: Methodology

This study adopts a descriptive and analytical approach. It describes the legal framework of self-defence and explains its concept, development and conditions of exercise, before analysing the relevant international legal texts, particularly the provisions of the United Nations Charter and the International Law Commission's 2001 Articles on State Responsibility. International judicial decisions and legal scholarship are also used where necessary.

Fourth: Research Problem

In light of the foregoing, the principal research question may be formulated as follows:

To what extent may self-defence be regarded as a circumstance precluding the international responsibility of a State, and what conditions and controls govern the exercise of this right under international law?

This question gives rise to several subsidiary questions, including: What is meant by self-defence? How has this right developed historically? What conditions must be satisfied for self-defence to be exercised lawfully? And what effect does the exercise of this right have on the international responsibility of a State?

To answer these questions, the study is divided into two sections. The first examines the concept of self-defence and its historical development, while the second addresses the conditions of self-defence and its effect on international responsibility.

Chapter One: The Concept of Self-Defence and Its Historical Development

Self-defence is one of the oldest concepts associated with the use of force in relations between States. Its content and legal scope, however, have not remained constant; they have developed gradually alongside the evolution of international law, as the international community moved from a system in which States enjoyed freedom to resort to war towards one based primarily on the prohibition of the use of force.

Accordingly, a study of self-defence must first clarify its meaning and then explain the principal historical stages through which it developed until it was regulated under the Charter of the United Nations.

Section One: Definition of Self-Defence

First Subsection: The Scholarly Definition of Self-Defence

In international law, self-defence means the right of a State to take necessary measures, including the use of armed force, to repel an armed attack against it or to defend itself against such an attack, within the limits permitted by international law.

This concept rests on the fundamental idea that a State subjected to an armed attack is not required to remain passive while awaiting the intervention of the international community. Instead, it may take the measures necessary to repel the attack and preserve its territorial integrity and political independence.

International legal scholars have differed over the scope and conditions of self-defence, particularly as to whether an actual armed attack must occur or whether a State may exercise self-defence against an imminent danger that has not yet materialised. The prevailing approach under the United Nations Charter, however, links the exercise of the right of self-defence to the occurrence of an armed attack, on the basis of Article 51 of the Charter.

Self-defence is an exceptional right and may not be used to achieve political, territorial or economic objectives, nor may it become a means of retaliation or punishment. Its purpose must remain the repelling of an attack and the averting of a danger threatening the State.

Second Subsection: The Legal Definition of Self-Defence

The Charter of the United Nations does not provide an explicit and comprehensive definition of self-defence. Instead, Article 51 recognises the right of States to defend themselves in the event of an armed attack. It provides: “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.”

This text shows that the Charter recognises self-defence as an inherent right of the State rather than creating the right itself; it regulates the exercise of that right within the framework of the collective international security system.

Article 51 also indicates that self-defence is not an absolute right but is subject to a number of legal restrictions. The most important are the requirement that an armed attack occur, the connection between the measures taken and the repelling of that attack, and the obligation to report the measures taken in self-defence to the Security Council.

Self-defence does not remove the Security Council’s authority in the maintenance of international peace and security. Article 51 makes the exercise of this right temporary, pending the adoption by the Security Council of the necessary measures. Individual and collective self-defence therefore operate within the collective security system established by the United Nations Charter.

Section Two: Historical Development of Self-Defence

Self-defence did not emerge suddenly in its present form. It passed through several historical stages associated with the development of international legal rules concerning war and the use of force.

First Subsection: Self-Defence Before the Establishment of the United Nations

Before the establishment of the United Nations, international law did not impose a general and comprehensive prohibition on the use of force in international relations. For a long period, war was regarded as a lawful means by which States could settle disputes and pursue their interests.

Under that system, the concept of self-defence was closely associated with the concept of just war. International legal scholars attempted to distinguish wars based on a legitimate cause from wars that lacked such a cause.

As international law developed during the nineteenth and early twentieth centuries, attempts began to emerge to restrict States’ right to resort to force. One of the most important developments was the 1907 Hague Convention, which included rules concerning the peaceful settlement of disputes and restrictions on resorting to force.

The League of Nations Covenant, adopted after the First World War, marked an important stage in efforts to restrict the use of force. It sought to impose limitations on States' resort to war, although it did not establish a comprehensive prohibition on the use of force.

The 1928 Paris Pact, also known as the Briand–Kellogg Pact, represented a further step in this direction. It condemned recourse to war as an instrument of national policy and helped pave the way for the emergence of the principle prohibiting the use of force in international relations.

Nevertheless, questions remained concerning the extent to which States retained the right to use force in self-defence, particularly in the absence of a centralised international system capable of protecting attacked States immediately and effectively.

Second Subsection: Self-Defence Under the United Nations Charter

The establishment of the United Nations in 1945 marked a fundamental turning point in the history of self-defence and the use of force in international relations. Article 2(4) of the Charter prohibits the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations.

Consequently, the prohibition on the use of force became the general rule in international relations, while self-defence became an exception to that rule.

The right was expressly recognised in Article 51 of the Charter, which affirms the right of a State to defend itself, individually or collectively, if an armed attack occurs against it.

The wording of Article 51 reflects a balance between two fundamental principles: first, the prohibition on the use of force; and second, recognition of a State's right to defend itself when subjected to an armed attack. The exercise of self-defence is also subject to Security Council oversight, since a State exercising this right must report immediately to the Council the measures it has taken.

The development of the concept of self-defence has not been confined to the text of the Charter. International courts have also contributed to defining its content and conditions. Among the most notable cases is the case concerning Military and Paramilitary Activities in and against Nicaragua before the International Court of Justice, in which the Court addressed issues relating to individual and collective self-defence and the conditions governing their exercise.

Self-defence in contemporary international law has therefore become a right subject to a number of conditions and restrictions. A State cannot invoke it merely to justify any use of force.

Chapter Two: Conditions of Self-Defence

Having examined the concept of self-defence and its historical development, this chapter addresses the principal legal conditions and restrictions that must be satisfied for the right of self-defence to be exercised in accordance with international law and the United Nations Charter.

Section One: Conditions That Must Be Satisfied by the Act of Aggression

Specific conditions must be met for an act of aggression to give a response the lawful character of self-defence. There must be an actual, present, direct, sufficiently serious and unlawful armed attack.

First Subsection: There Must Be an Armed Attack

The acts in question must constitute armed aggression involving the actual use of armed force against a State. Examples include ground forces invading the territory of a neighbouring State, naval forces blockading another State's ports, or air forces bombing civilian or military installations on the territory of a neighbouring

State. The training of armed groups across the border in a neighbouring State in order to provoke unrest and disturbances is also mentioned in this context.

An armed attack is therefore established only when several elements are present, including the quantity and type of weapons used and their military character.

Accordingly, the right of self-defence cannot be invoked in certain similar situations, such as the following:

1. A threat to use armed force or a form of non-military aggression, such as political or economic aggression. One example cited is Iraq's aggression against Kuwait in 1990, allegedly on the ground that Kuwait had committed economic aggression against Iraq.
2. A danger to the lives or property of a State's nationals in another State. A State should not use unstable conditions in another country, which may pose a danger to its nationals, as a justification for armed force against the State in whose territory those nationals reside.
3. A threat to a State's economic interests. A State should not treat economic measures imposed against it as justification for exercising the right of self-defence. The paper gives the example of Israel's 1967 war against Egypt, justified on the ground that Egypt had closed the Straits of Tiran and prevented the passage of strategic materials through them, which Israel relied upon as a legal argument for launching the war.

These situations do not amount to an armed attack of a kind that permits the State to use force in self-defence. Instead, the State may refer the matter to the Security Council under Article 39 of the United Nations Charter, on the basis that the situation constitutes a threat to the peace or a breach of the peace. The right of self-defence must be regarded as an exception to the general restriction on the use of force in international relations.

Second Subsection: The Armed Attack Must Be Present and Ongoing

The armed attack must be present, meaning that it has actually occurred but has not yet ended and remains ongoing. This is what justifies allowing the State to exercise self-defence without first obtaining the approval of the Security Council. If the attack has not yet occurred, or if it has already occurred and ended, there is no basis for invoking the right of self-defence. The Security Council should instead be informed of what has happened or what may happen, and it should take the appropriate measures in its capacity as the body primarily responsible for addressing such situations. On this basis, self-defence is not permitted against a potential attack, even one that is imminent.

The right of self-defence likewise does not arise in response to a potential attack or a future danger, even where that danger involves an express or implied threat to use armed force. For example, if one State issues an ultimatum requiring another State to fulfil certain conditions under threat of armed force if it refuses, the threatened State may submit a complaint to the Security Council so that it can take such action as it considers appropriate under Article 39 of the United Nations Charter.

Third Subsection: The Armed Attack Must Be Direct

The act of aggression must also be direct. The aggressor State must directly employ its armed forces against another State's territory, ships, aircraft or forces, regardless of the type of weapons used, with the aim of subjugating or dominating it, and with military engagement between the forces of the opposing parties.

Self-defence is therefore available only in response to a direct armed attack committed by the aggressor State.

The Bay of Pigs incident in Cuba in 1961 is cited in support of this view. A number of Cuban insurgents conspired to overthrow President Fidel Castro, with support from the United States Government, which supplied weapons and trained them at bases in Florida and Guatemala. After the Cuban Government defeated

the insurgents and killed most of them, it lodged a complaint with the United Nations General Assembly accusing the United States of indirect aggression. The General Assembly confined itself to adopting a resolution calling on UN Members to take measures to reduce tension between the two States.

Fourth Subsection: The Act of Aggression Must Be Sufficiently Serious

Not every hostile act gives rise to a right of self-defence, particularly where the act is minor and does not involve serious armed violence. Such an incident may be addressed through friendly and peaceful means rather than an armed response. For example, a border guard patrol firing at a patrol belonging to another State may not be sufficiently serious to justify self-defence; peaceful settlement and a claim for compensation may instead be appropriate.

International practice includes numerous cases in which States have relied on minor border incidents to justify aggression against neighbouring States under the pretext of self-defence. One example given is the United Nations' rejection of a complaint by Israel concerning fedayeen operations launched from Egyptian territory, on the ground that these operations fell below the level of an armed attack alleged by Israel. Consequently, Israel's invocation of self-defence to justify its aggression against Egypt in 1956 was rejected.

Fifth Subsection: The Act of Aggression Must Be Unlawful

Finally, the act of aggression must be unlawful, meaning that its unlawful character must be established under the applicable rules of international law. If the act is not unlawful, there is no basis for invoking self-defence as a circumstance precluding responsibility.

Under this condition, a party threatened by lawful self-defence may not invoke self-defence against the State exercising it: there is no self-defence against self-defence. The paper refers to the Nuremberg Tribunal, established after the Second World War to try German war criminals, which stated in its judgment that a State resorting to aggressive war loses the right to claim self-defence. This was based on a settled principle of criminal law that self-defence cannot be invoked against an act of self-defence.

Applying the same principle, self-defence may not be directed against individuals or bodies implementing decisions issued by international authorities, such as enforcement measures taken pursuant to a Security Council decision under Article 39 and the following provisions of the United Nations Charter.

Nor may self-defence be invoked against persons, groups or States using armed force to realise their right to self-determination, since that right is guaranteed under international law.

The paper consequently characterises as unfounded Israel's repeated claims, during its aggression against Lebanon, that it was exercising self-defence because it had been attacked by Hezbollah and other Lebanese resistance factions. It asserts that the latter were exercising a right recognised under international law, namely resistance to Israeli occupation.

The paper reiterates that self-defence may not be invoked against persons, groups or States using armed force to realise their right to self-determination, since that right is recognised under international law.

Section Two: Conditions That Must Be Satisfied by the Act of Defence

An armed attack against a State gives it the right to exercise self-defence to repel the attack. To prevent misuse of this right, international law establishes rules and restrictions that must be observed in the defensive action so that it does not lose its lawful character and turn into aggression. These restrictions are as follows:

First Subsection: Defence Must Be the Only Means of Repelling the Attack

This means that the State has no alternative to the use of armed force for averting the attack. If another means of repelling the attack exists without using armed force, the defensive action is not permissible in such

circumstances. The non-use of force in international relations is a peremptory rule from which departure is allowed only within the narrowest limits, where other means capable of repelling and deterring the attack are unavailable.

Accordingly, if the State targeted by aggression can seek assistance from an international organisation to repel the attack, its right of self-defence does not arise in the circumstances described by the author, even if it initiates the use of force. Such use of force cannot then be justified as a circumstance precluding international responsibility.

However, for an alternative to the use of force to qualify as the only available means of repelling an attack, it must be genuinely feasible and lawful and must preserve the State's rights, security, independence and dignity. If it does not meet these requirements, the right of self-defence remains available. The paper gives the example of US President George W. Bush's demand on 18 March 2003 that Iraqi President Saddam Hussein and his sons leave Iraq within 48 hours to avert an armed attack, arguing that acceptance of that demand could not be regarded as a feasible and lawful means that deprived Iraq of its right of self-defence.

Second Subsection: Defence Must Be Directed Against the Source of the Attack

The source of an attack may not be one State while the response is directed against another; otherwise, the response would itself constitute aggression. Nor may the exercise of self-defence violate the neutrality of a State that is not participating in the aggression, since such conduct would constitute an international crime. The paper cites Germany's violation during the First World War of Belgium's neutrality, guaranteed under the 1830 treaty, and Luxembourg's neutrality under the 1867 treaty, under the pretext of self-defence.

The source of an armed attack is not limited to the State that uses its armed forces to carry out the attack. It may also include a State that makes its territory available for use by the aggressor State. This is one of the forms of aggression referred to in Article 3 of UN General Assembly Resolution 3314 (1974), which defines aggression.

The paper gives the example of the United Kingdom allowing US aircraft to pass through its airspace while en route to attack Libya in 1986, in the context of Libya's claims concerning the Gulf of Sidra, which it regarded as part of its territorial waters. The United States rejected that claim and bombed Tripoli and Benghazi. According to the paper, Libya's right of self-defence would arise not only against the United States but also against the United Kingdom, which participated in the armed aggression by allowing its territory to be used. The paper further states that Kuwait served as the land bridge through which US forces passed to occupy Iraq, and that Saudi Arabia and Jordan opened their airspace to US aircraft for the attack on Iraq.

The paper also states that Egypt allowed US aircraft carriers and ships to pass through the Suez Canal and concludes that these States thereby participated directly in the aggression against Iraq.

Third Subsection: The Temporary Nature of Defensive Action Pending Security Council Intervention

Article 51 of the United Nations Charter states that the right of self-defence applies "until the Security Council has taken measures necessary to maintain international peace and security." The paper interprets this to mean that the victim State should cease its defensive action once the Security Council intervenes, as the body primarily responsible for maintaining international peace and security. The defending State must immediately inform the Security Council of the attack and the defensive measures it has taken; under this view, its right of defence ends when the Council intervenes and exercises its powers.

It must nevertheless be noted that Security Council intervention does not always occur with the ease or speed that might be expected in such situations. The Council's intervention depends on factors such as agreement among its permanent members and the possibility that one of them may exercise its veto. In addition, under Article 39 of the Charter, the Council must determine whether an act of aggression has occurred. These procedures may take a relatively long time, and the Council often remains unable to take action because of political disagreements among its members. The paper therefore argues that the State's right of self-defence remains in force during that period and distinguishes between two situations:

First situation: Where the armed acts of aggression are not continuous

If the aggressor State uses its armed forces to carry out an attack for a limited and defined period and then ceases, the attacked State acquires a right of self-defence and may respond immediately to the acts of aggression until they stop. Its right of self-defence ends once the aggression ceases.

Accordingly, if armed forces invade the territory of another State, the attacked State may repel the attack by confronting those forces or conducting air strikes against the aggressor State's territory. If the aggressor's forces withdraw and the attack ends, the attacked State may not continue using armed force under the heading of self-defence.

Second situation: Where the armed acts of aggression are continuous

In this situation, the attacked State cannot be expected to cease its efforts to stop the aggression or prevent it from achieving its objectives, unless the matter is brought to the attention of the Security Council, which then intervenes and assumes its responsibility for maintaining international peace and security.

The paper adds that defensive action is temporary pending the Council's intervention and is suspended upon such intervention, but the right does not necessarily lapse. The attacked State may recover its right of self-defence if the Council proves unable to fulfil its role and end the effects and consequences of the aggression. In this account, the Security Council is required to achieve the result of preventing aggression and ending its effects, rather than merely exercising due diligence. If it fails to achieve that result, the attacked State recovers its right of self-defence and may use force to restore its rights. Moreover, aggression is not established only by the continuing use of armed force; occupation of territory is also described as continuing aggression that gives the State a right of self-defence while annexation and occupation continue. The paper refers in this regard to the definition of aggression in UN General Assembly Resolution 3314, which it dates to 1979.

The paper maintains that Syria's right of self-defence against Israel remains protected because of the continuing occupation of the Syrian Golan Heights. Although the occupation followed Israel's aggression against Syria in 1967, it has continued to the present. Despite international opposition, Israel enacted a law in 1981 purporting to annex the Syrian Golan Heights. The annexation provoked strong Arab and international opposition and was not recognised by any State or international body. The Security Council intervened but, according to the paper, issued resolutions that were not implemented. Israel continued to occupy the Golan Heights while the Security Council remained unable to end the occupation, which the paper characterises as continuing aggression against Syria. It further states that Israel took advantage of the Syrian crisis and sought international recognition of the Golan Heights as part of Israel. In October 2018, the Israeli government announced its intention to hold local council elections in occupied Syrian Golan villages under Israeli law, and the elections were held despite opposition from residents and the international community. In response, the Security Council unanimously adopted Resolution 497, condemning Israeli measures to alter the status of the territory and declaring them "null and void and without international legal effect," while affirming that the Golan Heights remained occupied territory. The paper states that the United States was the only country to recognise Israeli sovereignty over the Golan Heights in 2019, while the rest of the international

community continued to regard them as Syrian territory under military occupation. It concludes that Syria's right of self-defence remains preserved and may be exercised.

The paper therefore argues that defensive action is not necessarily temporary and does not definitively lapse merely because the Security Council intervenes. Whether it remains temporary and whether the right ultimately ends depend on the outcome of the Council's intervention. The paper cites the war of 6 October 1973, launched by Egypt and Syria against Israel in response to the continued occupation of their territories since 1967 and after the Security Council had failed to end the occupation. The war ended with disengagement agreements among the parties, followed by the peace treaty between Egypt and Israel on 26 March 1979 and Egypt's recovery of full sovereignty over Sinai and the Suez Canal on 25 April 1982.

Taba, meanwhile, was recovered through international arbitration on 19 March 1989 before an arbitral tribunal in Geneva, Switzerland. Syria recovered only part of the occupied Golan Heights, with the return of Quneitra to Syrian sovereignty, because much of Syria's land and air weaponry had been destroyed and it was no longer capable of fighting an intense war at that time.

Fourth Subsection: There Must Be Proportionality Between the Defensive Action and the Attack Against the State

The use of force in self-defence must be proportionate to the attack. Although a State has the right to repel aggression, it is constrained by the requirement not to exceed the limits of self-defence in a manner revealing responsibility or a desire for revenge. The criterion used to assess proportionality in international law is to compare the conduct of the defending State with the conduct that a State in the same circumstances as the attacked State would have adopted. If the defensive response is proportionate to, or less severe than, the acts of aggression suffered, proportionality is satisfied. If the response exceeds the acts of aggression, the State's conduct moves from the sphere of defence into that of aggression.

If the aggressor State uses weapons whose use is prohibited and which violate the laws and customs of war, the attacked State may not use the same internationally prohibited weapons, even in the name of proportionality, because using such weapons itself constitutes an international crime. Similarly, if armed groups infiltrate from a neighbouring State, commit killings, destruction, robbery and looting at night, and then return to bases in that State, proportionality does not entitle the attacked State to send armed groups of the same type and number, equipped with the same weapons, to commit the same crimes.

Nor would proportionality be achieved by using artillery and aircraft to bomb the groups' positions, as this would exceed the limits of self-defence. Rather, according to the paper, proportionality would be achieved by allowing the attacked State to pursue the groups within its borders, take precautions to protect the border, and prevent the groups from infiltrating.

In international practice, however, the principle of proportionality has often not been respected where States have committed acts of aggression while claiming to exercise their right of self-defence. Each State has sought to characterise its conduct in a manner consistent with its own interests. The issue of proportionality arose in 1964 during an armed confrontation between US and Vietnamese naval forces in the Gulf of Tonkin. The US Government claimed that North Vietnamese naval forces had attacked US warships in international waters and ordered its forces to destroy any attacking forces following the first attack. After a second alleged attack resulted in the destruction of a substantial part of US forces, US aircraft attacked military bases in North Vietnam. The United States explained its actions on the basis that proportionality, in its view, meant eliminating the source of aggression completely.

The paper also states that Israel justified its aggression against Lebanon in 2006 on the basis of self-defence but failed to respect proportionality: the scale and consequences of Israel's response exceeded those of the

Lebanese resistance. It argues that the response to Hezbollah's limited actions could not legitimately involve the displacement and killing of civilians and the destruction of economic infrastructure. The extensive damage inflicted on Lebanon, it states, was not comparable to the damage Hezbollah inflicted on Israel through the launching of Katyusha rockets. The paper reports that a United Nations spokesperson stated that, during the war, Israeli forces carried out 523 air raids and fired 23,000 shells into Lebanese territory, in addition to massacres of civilians in Majdal Shams, Maroun al-Ras, Bint Jbeil and other Lebanese areas.

Conclusion

In conclusion, this study of self-defence as a circumstance precluding international responsibility shows that self-defence is one of the most important exceptions recognised by international law to the prohibition on the use of force in international relations. The United Nations Charter enshrines this right, particularly in Article 51, while subjecting its exercise to a set of legal conditions and restrictions. Self-defence may preclude international responsibility only when its conditions are satisfied and it is free from abuse or any exceeding of the limits of necessity and proportionality.

Accordingly, we propose that the concept of self-defence and its conditions be defined more precisely in order to avoid an overly broad interpretation. We also propose strengthening the Security Council's role in monitoring the lawfulness of measures taken on this basis. In addition, international judicial oversight of cases involving the use of force should be strengthened to ensure that self-defence is not used as a pretext for interference in the affairs of States. States should also be encouraged to comply with the principles of necessity, proportionality and good faith, thereby helping to protect international peace and security and strengthen respect for the rules of international law.

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Fourth: International Charters and Agreements

1. Charter of the United Nations, 1945, Article 2, paragraph 4.
2. Charter of the United Nations, 1945, Article 51.

Translator's Queries (separate from the translated article)

The translation preserves the substance and order of the supplied manuscript. Several bibliographic or factual details in the source appear incomplete or internally inconsistent (including the publication year associated with General Assembly Resolution 3314 in one passage, some incomplete reference details, and some historical/legal assertions). They have not been silently corrected. Please verify these details against the author's intended sources before publication.

Source Footnotes and Supporting References

1. Muhammad Saadi, *The International Responsibility of the State in Light of International Legislation and Jurisprudence*, Dar al-Jami'a al-Jadida, Alexandria, 2013, p. 195 et seq.
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21. Jamal Mouhi Eddine, *The Role of the Security Council in Achieving International Peace and Security amid International Changes*, Master's dissertation, Faculty of Law, Ben Aknoun, Algeria, 1998, p. 54.
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23. Mina Al-Omari Zeggar, previously cited, p. 80. The source's printed year for General Assembly Resolution 3314 appears inconsistent in the body text; it has not been silently corrected.

24. Mina Al-Omari Zeggar, previously cited, p. 82.
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