

ABUSE OF SELF-DEFENCE UNDER ARTICLE 51 OF THE UN CHARTER: LEGAL BOUNDARIES AND GLOBAL CONSEQUENCES

Paweł NATORSKI

PhD Candidate, University of Łódź, Łódź

e-mail: pawel.natorski@edu.uni.lodz.pl

ORCID ID: 0000-0002-0655-3816

Abstract

The right to self-defence under Article 51 of the UN Charter constitutes one of the fundamental norms of public international law. However, in recent decades its interpretation and application have increasingly been subject to abuse by states seeking to legitimise the use of force. This paper analyses selected cases of such abuse (e.g. military actions of the United States, Russia's actions in Ukraine since 2014/2022, and selected operations in the Middle East) and argues that the misuse of self-defence not only undermines the prohibition of the use of force (Art. 2(4) UN Charter), but may also contribute to broader social changes on a global scale. Beyond legal implications, the paper explores the broader social consequences that may arise from such developments, including mass forced migrations, delegitimisation of international law, erosion of trust in global institutions, societal polarisation, and the shift from "security through law" to "security through force." It argues that these developments may contribute to a feedback loop between legal erosion and social processes. The paper argues that the ongoing broadening of Article 51 contributes to the fragmentation of the post-1945 international order. It concludes with *de lege ferenda* considerations aimed at reinforcing procedural and substantive safeguards to preserve the balance embedded in the UN Charter.

Keywords: *right to self-defence, abuse of international law, global social changes, collective security, use of force*

1. Introduction

The right to self-defence under Article 51 of the United Nations Charter remains one of the most contested norms of contemporary public international law. While the Charter established a comprehensive system of collective security centred on the prohibition of the use of force (Article 2(4)), the practical application of the self-defence exception has undergone significant evolution and expansion in recent decades. This development raises important questions about the compatibility of current state practice with the original object and purpose of the Charter.

The aim of this study is to critically examine the evolving interpretation and application of the right to self-defence in modern international relations. It assesses the extent to which contemporary state practice aligns with the letter and spirit of Article 51, identifies key areas of expansion or potential abuse, and analyses the broader implications of these developments for the stability of the international legal order.

The original scholarly contribution of this article lies in its systematic analysis of the feedback loop between the legal erosion of the right to self-defence under Article 51 and its profound social and political consequences. While existing literature has extensively examined either the doctrinal expansion of self-defence (e.g. the “unwilling or unable” doctrine, anticipatory self-defence) or the humanitarian and security implications of specific military interventions, this study integrates both dimensions. It argues that the repeated instrumentalisation of Article 51 does not merely undermine the prohibition of the use of force (Art. 2(4)), but contributes to self-reinforcing social processes, including mass displacement, securitisation of migration, societal polarisation, and the rise of populist narratives — which, in turn, create political conditions that facilitate or legitimise further unilateral uses of force. This dynamic creates a self-reinforcing cycle that contributes to the fragmentation of the post-1945 international legal order. By linking legal doctrine with empirical social consequences, this article offers a novel, interdisciplinary insight that goes beyond traditional international law scholarship.

Specifically, the study seeks to address the following research questions:

- To what extent has the interpretation of Article 51 expanded beyond its traditional understanding?
- How do states justify the use of force against non-state actors, anticipatory threats, and in situations of “unwilling or unable” territorial states?
- What are the consequences of these developments for the UN collective security system and the prohibition on the use of force?

In line with the theme of the XIII International Scientific Conference, “Social Changes in the Global World,” this paper also situates the interpretation and application of Article 51 of the UN Charter beyond the boundaries of traditional legal analysis. Contemporary state practice in the field of self-defence

is not only a legal mechanism for justifying the use of force, but is also closely connected to broader processes of social change, including forced migration, political polarisation, securitisation of social issues, and declining trust in international institutions. In this sense, the evolution of the law on self-defence should be understood not merely as a doctrinal development within international law, but as a factor contributing to wider transformations of global social and political order.

1. 1. Methodology

This study adopts a normative legal approach supplemented by doctrinal and empirical analysis. The primary method involves systematic interpretation of legal norms through the examination of positive law (principally the UN Charter), subsequent state practice, and relevant international jurisprudence.

Particular attention is paid to the jurisprudence of the International Court of Justice (ICJ), official positions of states expressed in UN Security Council (UNSC) documents and diplomatic correspondence, UN General Assembly resolutions, and the writings of leading scholars.

The study combines a traditional textual and teleological interpretation of Article 51 with an empirical review of state practice since 1945, with special emphasis on the period after 11 September 2001. To ensure balance, the analysis examines the practice of both Western and non-Western states. Where relevant, the study also considers policy and security considerations that influence legal interpretations without conflating them with strict legal analysis.

2. The UN Charter Framework: Prohibition of the Use of Force and Its Exceptions

The supreme goal behind the creation of the United Nations after World War II was the desire to prevent a similar tragedy in the future. The cooperating international community was meant to prevent the repetition of crimes against humanity. The International Military Tribunal at Nuremberg held that aggressive war is the "supreme international crime" (Shiryaev, p. 81). Building on the pre-war doctrine of international law (primarily expressed in the Kellogg-Briand Pact, signed in 1928), it was decided that the foundational legal act of the UN — the United Nations Charter — should be based on the prohibition of the use of force. This principle was explicitly enshrined in Article 2(4) of the Charter. In the *Nicaragua v. United States of America* case (*Nicaragua case*), the International Court of Justice described this provision as an expression of a fundamental principle of customary international law (*Nicaragua v. United States*, 1986, para. 292 (3)). In the *Democratic Republic of the Congo v. Uganda* case, the

introduction of this principle into the Charter was recognized as a cornerstone for this legal document (*Democratic Republic of the Congo v. Uganda*, para. 148). Importantly, it is accepted that Article 2(4) covers all forms of the use of force in interstate relations, not only “war” in the formal sense of the word (Crawford, 2019, p. 749-751).

The United Nations Charter provides only two exceptions to the principle of the prohibition of the use of force in interstate relations. The first is described in Article 39. It provides for the possibility of action by international forces following prior authorization by the UN Security Council: “The Security Council can determine a condition in which there is a real threat to international peace and security, then if a security threat is found by the Security Council, then action can be taken either through military or non-military channels in order to restore international peace and security.” However, as can be seen over the eighty years since the adoption of the Charter, this solution implies the impossibility of UN action. The reason is the structure of the Security Council and its high ineffectiveness — taking action requires unanimity (or at least the absence of opposing votes) of the five permanent members. In a divided world where state actors have opposing interests, reaching consensus on such sensitive issues as active intervention becomes impossible (especially considering that usually at least one permanent member of the Security Council is less or more involved in the conflict).

In the practice of the United Nations Security Council under Article 39 of the UN Charter, there have been two widely cited instances in which a determination of a breach of peace or act of aggression was followed by authorisation for large-scale use of force by states. The first occurred in 1950 in response to the Korean War, when the Security Council, in the absence of the Soviet Union due to its boycott and with China represented by the Republic of China (Taiwan), adopted resolutions enabling member states to assist South Korea under the United Nations Command framework. The second case took place in 1990–1991, when the Security Council explicitly authorized member states to use “all necessary means” to expel Iraqi forces from Kuwait following Iraq’s invasion.

In the early 1990s, Francis Fukuyama wrote about the “end of history,” experts and analysts predicted the building of a new world order based on a single hegemon — the United States — and assumed the triumph of democracy and its spread across all continents. More than three decades after the last effective intervention by the Security Council, we see that these prophecies have not come true and the era of global conflicts on various fronts continues. Attempts to reform the Council, undertaken, among others, by UN Secretary-General Kofi Annan in the early 21st century, have failed. Looking to the future, there are no prospects for change in this regard in the near term.

3. The Right to Self-Defence under Article 51: Text, Purpose and Evolving Interpretation

The rare authorisation of force by the Security Council demonstrates the effectiveness of the solution. For states that wish to use force and seek justification for this action under international law, the only remaining option is the second solution — the application of self-defence. This is found in Article 51 of the United Nations Charter: “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.” Some scholars have argued that right to self-defence forms a *jus cogens* norm, as stated by Hans Kelsen in his 1950 commentary on the UN Charter (Kelsen, 1950, p. 791).

As N. van der Steenhoven rightly noted: “The wording of Article 51 incorporated concerns and showed a balance between, on the one hand the sovereign rights of the state actor to protect itself, and on the other hand, the transfer of the responsibility for peace and security to a community based system” (Van der Steenhoven, 2019, p. 247). The adoption of the article in this form was to some extent thanks to the Latin American part of the world. During the San Francisco Conference (held between April and June 1945), Latin American states (during the Conference there were about 20 of them, forming a large voting bloc) feared that the new UN system (dominated by the Security Council and the veto power of the great powers) would weaken or invalidate their regional security system, the key element of which was the Act of Chapultepec, adopted in March 1945 (Halberstam, 1996, p. 241). It provided that an attack on one American state would be considered an attack on all and authorised collective self-defence, including the use of armed force. The Latin American states therefore successfully proposed including in the Charter the possibility of applying this exception to the prohibition on the use of force.

Over the years, many interpretative doubts have arisen regarding Article 51. Along with new possibilities for conducting conflicts, in recent decades an expanding interpretation of the right to self-defence has been observed more and more frequently. States invoke Article 51 not only in response to classical armed aggression, but also in the face of hybrid threats, the activities of terrorist organizations, cyberattacks, or actions carried out by non-state actors. This leads to a gradual blurring of the boundary between the legal use of force and offensive actions.

In its 2004 advisory opinion on the wall built by Israeli authorities on Palestinian territory, the ICJ ruled directly that “Article 51 of the Charter thus recognizes the existence of an inherent right of self-defence in the case of an armed attack by one State against another State” (*Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, para. 139). A literal

interpretation would exclude the lawful use of force on a given territory against an organization that does not exercise full control over the state. However, as will be shown below, in the 21st century the practice of many countries has moved in a different direction.

As a point of reference for considerations on the use of Article 51 of the Charter in contemporary international relations, the 1986 ICJ judgment in the *Nicaragua* case should be taken. It provided many guidelines on how the right to self-defence should be interpreted. The ICJ rejected the United States' legal justification of "collective self-defence" for arming the "Contras" rebels and mining Nicaraguan ports, determining that the United States violated international law by illegally intervening in Nicaragua's sovereignty.

In the judgment, the Court said that Article 51 of the Charter is only meaningful on the basis that there is a "natural" or "inherent" right of self-defence (*Nicaragua v. United States*, 1986, para. 176). As the Court indicated in the *Nicaragua* case (and also later in the *Oil Platforms* case), reporting practice is a relevant factor in assessing the credibility and good faith of self-defence claims (Elmohtadybellah, 2026, p. 153). An important requirement under Article 51 is that any state invoking the right of self-defence must report its actions to the UN Security Council and provide a convincing legal explanation demonstrating that the use of force falls within the recognized exceptions to the prohibition on force. The responsibility for substantiating this claim rests entirely with the state concerned. However, importantly, not all actions taken in self-defence are reported to the Security Council.

4. Contemporary State Practice: The Problem of "Armed Attack" and Non-State Actors

Despite the defeat before the ICJ in the *Nicaragua* case, the state that in recent years has regularly justified its actions in various parts of the world by invoking the right to self-defence is the United States.

The legal defence for such actions is the need to protect American citizens from terrorism and the constant threat to American targets worldwide. The U.S. approach on this issue has been largely shaped by the September 11 attacks. This raises the question of whether a terrorist attack of such magnitude, causing thousands of victims, the destruction of public utility buildings, and the targeting of *de facto* military targets related to national security (the Pentagon), meets the criteria of an "armed attack" under Article 51 of the Charter. As Steven Ratner notes, what qualifies as an armed attack is a highly contested question (Ratner, 2013, p. 340). The legal-historical understanding of this term requires the use of military force for an action to be recognized as an armed attack. However, as the scale of the September 11, 2001 attacks also shows, in relation

to the nature of contemporary terrorist organizations, this understanding is of decreasing importance in practical application.

The scale of Al-Qaeda's attacks also raised the question of whether Article 51 can also apply to non-state actors, such as terrorist organizations. Al Qaeda is not a state. Nonetheless, the actions taken against the United States on September 11 were classified by Security Council Resolution 1368 as "a threat to international peace and security". Resolution affirms the inherent right of individual and collective self-defence under Article 51 of the UN Charter, which has been widely interpreted as supporting the legal basis for the United States' response to the 9/11 attacks (Hilpold, 2016, p. 129). This led to the development of a State practice of exercising the right of self-defence against non-State actors as a result of increasing violent actions of such actors.

However, having regard to the principles of international law, this principle comes into conflict with another principle. Terrorist organizations usually have a foothold on the territory of some state. Because of that, conducting operations against the terrorist group requires violating the sovereignty of that state. There is also the question of the extent of the relationship between the state and the organization. In the *Democratic Republic of the Congo v. Uganda* case the ICJ held that "the absence of action by the Government against rebel groups in the border areas is not the same as tolerating or approving their activities" (*Democratic Republic of the Congo v. Uganda*, para. 301). From this judgment, it can be inferred that the possibility of taking armed action against a group on the territory of another state in self-defence may imply some form of support for that group by the executive authorities of that state, giving the impression of some form of cooperation between them.

In its letter of September 2014 to the Security Council, the United States significantly expanded this legal position. The country has asserted that states „must be able to defend themselves, in accordance with the inherent right to individual and collective self-defence ... when ... the government of the State where the threat is located is unwilling or unable to prevent the use of its territory for ... [terrorist] attacks" (*Letter dated 23 September 2014 from the Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General (UN Doc. S/2014/695)*). Compared to the ICJ's judgment in the *Democratic Republic of the Congo v. Uganda* case, this is a significantly broader interpretation of state responsibility for terrorist organizations operating on its territory. It is not enough to simply not take action – each country has to fight terrorism, and do so effectively. The interpretation of this document allows for the thesis that the right to self-defence under Article 51 of the Charter would be a superior principle to the prohibition of interference and violation of sovereignty — when it comes to combating threats to international peace and security.

A similar position was expressed by the British international law circle in the 2005 Chatham House Principles. It was stated there that “Article 51 is not confined to self-defence in response to attacks by states. The right of self-defence applies also to attacks by non-state actors,” but in such a case the attack must be “large scale.” This thesis was upheld in 2017 by Attorney General Jeremy Wright in a speech on behalf of the government — the right to self-defence covers attacks by non-state actors (Wright, 2017).

France recognizes an exception in cases where a non-state group possesses the characteristics of a “quasi-state” (*quasi-État*). The best example is the case of the Islamic State (ISIS). After the attacks in Paris in November 2015, France expanded operations to Syria and formally invoked Article 51. In its letter to the UN Security Council (S/2015/745), France justified its actions as a response to the “direct and extraordinary threat” from ISIL, also citing UN Security Council resolution. In a 2021 document (on international law in cyberspace, but also referring to general principles), France presented its official position: “In accordance with ICJ jurisprudence, France does not recognize the extension of the right to self-defence to acts by non-state actors whose actions are not directly or indirectly attributable to a state. However, in exceptional cases, France has invoked self-defence against an actor with ‘quasi-state’ characteristics, such as Daesh in Syria” (*French position on international law applied to cyberspace*, p. 6).

German jurisprudence also commented on this topic. The Federal Constitutional Court held that the Federal Government’s interpretation of Article 51 UN Charter —according to which self-defence may be invoked against non-state actors operating from the territory of another state —is at least legally tenable (*Order of the Second Senate – 2 BvE 2/16*, par. 50-51).

4.1. State Practice Beyond Western Powers

While much attention has been devoted to the practice of the United States and its allies, the expansive interpretation of the right to self-defence is by no means limited to Western states. A growing number of countries across different regions have invoked Article 51 in ways that stretch traditional boundaries.

Russia has repeatedly relied on self-defence claims. In addition to its 2022 invocation of Article 51 in relation to Ukraine (justified both as individual self-defence against alleged NATO threats and collective self-defence of the Donetsk and Luhansk entities), Russia has used similar arguments in Georgia in 2008 and Syria. In the latter case, Moscow justified its military presence at the request of the Syrian government (reference to collective self-defence under Article 51), but also conducted operations against various non-state armed groups (Collins, 2015).

China has shown increasing assertiveness in the South China Sea. While Beijing has generally avoided direct invocation of Article 51, it has justified island-building activities and naval operations by reference to its “inherent” sovereign rights and the need to defend against perceived external interference. Chinese scholars and officials have also argued for a broader understanding of self-defence in the context of territorial disputes and potential threats to critical sea lanes (Zhang, 2022).

Turkey has conducted multiple cross-border military operations in Syria and Iraq, primarily targeting the Kurdistan Workers’ Party and affiliated groups. Ankara has consistently framed these actions as legitimate self-defence against terrorist threats originating from across its borders. In several instances, Turkey has notified the UN Security Council under Article 51, arguing that the Syrian and Iraqi governments were unable or unwilling to prevent the use of their territory for attacks against Turkish target (Bagheri, 2017).

Iran has developed an extensive network of proxy forces (the “Axis of Resistance”) across the Middle East. While Iran relatively rarely invokes Article 51 directly¹, its support for groups such as Hezbollah, the Houthis in Yemen, and various Shia militias in Iraq and Syria has been justified as a form of collective self-defence or forward defence against perceived Israeli and American threats. Incidents such as missile strikes attributed to Iranian-backed groups have further complicated the attribution and self-defence framework.

The above examples demonstrate that the trend toward expansive interpretation of Article 51 is a global phenomenon rather than a purely Western one. Different states adapt the norm to their specific security environments — whether facing transnational terrorism, proxy warfare, territorial disputes, or regional power competition. This widespread practice contributes to the formation (or erosion) of customary rules, but also increases legal uncertainty and the risk of reciprocal claims and escalation. The diversity of state practice underscores the need for clearer criteria regarding the scale and gravity of an “armed attack,” the requirements of necessity and proportionality, and the conditions under which force may be used against non-state actors or in anticipatory scenarios.

5. Anticipatory and Preventive Self-Defence: Legal Controversies and Contemporary Practice

There is no question that the law of self-defence, especially that governing anticipatory self-defence, leaves room for interpretation (Schmitt, 2025). The lack of a common understanding both among States and scholars

¹ The example of direct reference to Article 51 is e.g. airstrike attacks from June, 2026. (*Iran Foreign Ministry statement on defensive strikes against Israeli regime target*).

reflects the controversial nature of the use of force in anticipatory self-defence. T. Franck noted that, “it is beyond dispute that the negotiators deliberately closed the door on any claim of anticipatory self-defence” (Franck, p. 50). However, under international customary law, preventive use of force in self-defence remains lawful — provided the conditions of the so-called *Caroline* test are met. It derives from the 1837 incident in which Britain sank the American ship “*Caroline*.” The vessel was used to transport American fighters to Canada (then part of the British Empire), where they fought against British forces. Conditions were then established that a state acting in preventive self-defence must meet — the State has to show “a necessity of self-defence, instant, overwhelming, and leaving no choice of means and no moment for deliberation.”

In contemporary doctrine, the conditions constituting the legality of the use of force in preventive self-defence are discussed, for example, by Michael N. Schmitt: “Preventive self-defence occurs when one of the three essential elements of the last window approach is missing: 1) capability to mount an armed attack; 2) a decision to launch an armed attack; and 3) the need to act now lest the opportunity to effectively defend oneself be lost” (Schmitt, 2022).

Clearly, preventive use of force in self-defence is treated restrictively. Therefore, state actions on this basis are usually subject to criticism from the international community. The mentioned 2003 invasion of Iraq caused great controversy — in its case, it is difficult to speak of the “urgent and overwhelming necessity of self-defence, leaving no choice of means and no moment for deliberation” known from the *Caroline* case, especially after years when it is known that the invasion was largely based on premises about Iraq’s potential nuclear threat. Another example is Israel’s attack on the Osirak Iraqi nuclear facility in 1981, after which the UN Security Council (including the U.S.) criticized Israel for the “absence of any evidence that Iraq had launched or was planning to launch an attack that could justify Israel’s use of force. ... [T]he presence in a State of the military capacity to injure or even to destroy another State cannot itself be considered a sufficient basis for the defensive use of force” (Bennett, 2023).

At the beginning of the 21st century, the issue of applying the right to self-defence in the context of preventive attack gained importance. This was prompted by the National Security Strategy of the United States issued in 2002. It contains the statement: “To forestall or prevent such hostile acts by our (American – P.N.) adversaries, the United States will, if necessary, act preemptively” (*U.S. National Security Strategy: Prevent Our Enemies From Threatening Us, Our Allies, and Our Friends with Weapons of Mass Destruction*; 2002). This maxim was called the Bush Doctrine, after the then U.S. president (*Remarks by the Vice President Richard B. Cheney at a Bush-Cheney ’04 event in Albuquerque*).

After the United States announced a strategy of preventive armed action, other states adopted similar positions. For example, Australian Prime Minister

John Howard announced in December 2002 the need to reassess the concept of self-defence and stated that Australia would, if necessary, take preventive measures to prevent attacks by terrorist organizations operating in Southeast Asia (Garwood-Gowers, 2004, p. 58). Shortly thereafter, in March 2003, a group of states (including the U.S. and Australia), without authorization from the UN Security Council, launched a military intervention in Iraq. One of the legal bases cited was the right to preventive self-defence.

This demonstrates that the above lack of a uniform interpretation creates room for abuse and a sphere for building various legal interpretations. An example of armed action that raises enormous reservations and does not meet the above criteria for preventive self-defence is also Russia's armed invasion of Ukraine. It was precisely Article 51 of the UN Charter that the authorities in Moscow invoked to explain the aggression against its western neighbour. Vladimir Putin directly referred to this article in his speech launching the "special military operation" on the morning of February 24, 2022. Russia's position, presented by Putin and submitted to the UN by the Permanent Representative to the United Nations (the military action was "taken in accordance with Article 51 of the UN Charter in the exercise of the right of self-defence"), is based on both types of self-defence — individual and collective. On the one hand, the Russian world „must defend itself against NATO"; on the other, Russia is providing "fraternal assistance" to other entities — the Donetsk People's Republic and the Luhansk People's Republic (internationally recognized by Russia on February 21, 2022), as Russian-speaking residents of these territories are allegedly threatened with "genocide" supposedly planned by the Ukrainian authorities. However, even if the two entities had qualified as States (which is incorrect according to the Montevideo criteria), the Russian action in collective self-defence failed to satisfy the two universally accepted criteria of self-defence: necessity and proportionality. A full-scale invasion of a sovereign country and attacking targets across its entire territory did not meet the requirements of collective self-defence. In the case of this conflict, it is Ukraine that has the right to self-defence, as confirmed by the UN General Assembly on March 2, when the UN General Assembly adopted — by an overwhelming majority of 141 against 5 — a resolution rejecting the Russian Federation's invasion of Ukraine and demanding that Russia immediately withdraw its forces and abide by international law.

In connection with the American airstrikes on Iran, the justification for the use of force in preventive self-defence was presented by U.S. Ambassador Mike Waltz in his statement to the UNSC on February 28, and again on March 10. According to it, the U.S. had the right to take individual self-defence in the face of Tehran's "long-standing approach" toward the United States, manifested in support for global terrorism and nuclear ambitions (D'Alessandra, 2026, p. 12). This was another use of force against Iran in the form of preventive self-defence

— previously, a similar justification was used for the killing of General Qasem Soleimani by an American drone in January 2020. As seen in the example of Russian aggression and U.S. actions, in today's times the use of self-defence is primarily employed by military powers and is carried out at a time convenient for the attacker — not as a direct and “immediate” response to a given action (compared, for example, to American attacks on terrorist targets in the 1990s).

Despite the above objections to the legally questionable invocation of the right to preventive self-defence, as M. Shaw rightly noted, the concept of anticipatory self-defence is gaining importance in light of modern weapons, whose use allows for a lightning-fast attack enabling the rapid destruction of a small (relative to the state's area) target (Shaw, 2011, p. 698). This is an argument often invoked by Israel as the basis for military operations in the Middle East. It seems that a small state must act immediately and sometimes preventively, otherwise it may be annihilated in a matter of moments.

6. The Social and Political Consequences of the Abuse of Self-Defence

The use of armed force in an act of self-defence must be carried out within the limits of international law, taking into account international humanitarian law. A state invoking self-defence must act in accordance with humanitarian principles, protect civilians, and strive to preserve international peace and security. Importantly, an action based on Article 51 should be temporary in nature and terminated immediately once the threat ceases. Intervention must be limited in time and space and that means the State must not prolong its presence in foreign territory.

However, excessively broad or instrumental invocation of Article 51 of the UN Charter by some states produces far-reaching effects that go far beyond the purely military sphere. This may have broader social and political implications.

The most visible effect is mass forced migration and humanitarian crises. Interventions or long-term military operations justified by Article 51 (e.g. the 2003 invasion of Iraq, the campaign against ISIS in Syria and Iraq, numerous drone attacks in Yemen, the invasion of Ukraine) have led to the destabilization of entire regions. As a result, millions of people have lost their homes. According to UNHCR data, the conflicts in Syria, Iraq, and Afghanistan alone have resulted in tens of millions of forcibly displaced persons, including both refugees and internally displaced persons, since 2001 (UNHCR, *Global trends: Forced displacement in 2023*). These migration movements cause enormous social tensions in host countries like Turkey or European Union countries, an increase in xenophobia, radicalization, and political polarization.

This discussion is supported by extensive empirical evidence and academic literature. UNHCR Global Trends reports (2023–2024) indicate that the cumulative effect of conflicts involving expansive interpretations of Article 51

has contributed to over 120 million forcibly displaced persons worldwide — the highest number since the end of the Second World War. The Syrian conflict alone generated more than 14 million displaced persons, while Russia’s 2022 invasion of Ukraine added over 10 million refugees and internally displaced persons. These figures are corroborated by World Bank and International Organization for Migration analyses, which also highlight enormous economic costs and severe strain on social cohesion in host states. Scholars in international security studies, particularly those drawing on the Copenhagen School's securitisation theory, argue that large-scale forced displacement can contribute to the securitisation of migration, which may reinforce xenophobic attitudes, political polarisation and support for radical political actors (Leonard & Kaunert, 2022). A commonly cited example is the 2015–2016 European migration crisis, driven primarily by conflicts in Syria, Iraq and elsewhere in the Middle East, which coincided with increased support for populist and far-right parties in several European countries (Mudde, 2019). Comparable political and social tensions have also been observed in Turkey, Jordan, Lebanon and parts of the Sahel, although their drivers are more context-specific and multifaceted.

What is more, the frequent use of Article 51 in situations that are difficult to consider classical “self-defence” (e.g., the killing of General Qasem Soleimani in 2020), may lead to the progressive delegitimization of the entire system of international law. States of the Global South increasingly perceive the UN Charter not as a universal regulator, but as a selective tool reserved for Western powers.

The result is a decline in trust in international institutions. Security Council resolutions lose significance, and states begin to openly question the authority of the UN. This is evident, among others, in the attitudes of China, Russia, but also many Arab, African, and Latin American states. The classical collective security system, based on the Security Council, is gradually being replaced by a system of “selective self-defence”. States see that invoking Article 51 is more effective than seeking the consent of the UN Security Council.

In connection with the above, a disturbing mechanism emerges — a feedback loop between legal abuses and social processes. The weakening of legal norms causes an increased sense of impunity among states and societies. This leads to growing uncertainty, implying greater militarization of thinking. As a result, social polarization increases — populism, nationalism, and the rhetoric of “strong leadership” gain popularity (this is visible both in Europe and the U.S., Latin American countries, or in the Middle East). The consequence is greater acceptance by elites and societies for further unilateral armed actions, which in turn generate further erosion of norms.

The above cycle is particularly visible in recent years. An example is the military operation in Iraq and its consequences. The intervention without the consent of the Security Council, justified by preventive self-defence, has been widely identified by scholars as a significant contributing factor to the emergence

of ISIS, and subsequently the rise of migration crisis in Europe and the long-term growth of both anti-Western sentiments and increasing support for the far right in the Western World (Brands & Feaver, 2017).

As a result, we are observing not only a change in international law, but a fundamental change in the perception of security — from the model of “security through law” to the model of “security through force.”

This amplifies the decline in societies’ trust in international law. If states can arbitrarily interpret the premises of self-defence, citizens begin to perceive the international order as a system based more on political power than on uniform legal norms. States increasingly build security narratives based on a sense of permanent risk, which favours the militarization of politics, increased defence spending, and the restriction of civil rights and freedoms in the name of national security. Empirical studies in conflict and comparative politics suggest that prolonged engagement in externally justified military operations is often accompanied by a gradual expansion of executive power, increased secrecy in decision-making processes, and a narrowing of parliamentary and judicial oversight over the use of force (Posner, Vermeuele, 2011). This phenomenon has been documented in several states involved in counter-terrorism operations after 2001, where legal frameworks designed for exceptional circumstances have, in practice, contributed to the normalization of emergency governance structures.

At the same time, the weakening of a uniform interpretation of Article 51 influences the transformation of the UN collective security system itself. Increasingly, there is a shift from a model based on universal norms of international law to a system of regional security arrangements and ad hoc military coalitions. States are losing confidence that UN mechanisms are sufficiently effective in responding to contemporary threats. The weakening of the authority of international law increases the sense of threat, and the increased sense of threat leads to further expansion of the practice of unilateral use of force. This is all the more paradoxical because the solutions provided for in the United Nations Charter were intended to lead to the cessation of the use of force in interstate relations.

Conclusion

The analysis conducted in this study demonstrates that the interpretation of Article 51 of the UN Charter has evolved since 1945. While the text of Article 51 refers to self-defence in the event that “an armed attack occurs”, contemporary state practice increasingly extends the concept to situations involving non-state actors, transnational terrorist organisations, cyber threats, and, in certain cases, anticipatory uses of force. As Mexico informed in a report to the UN, Article 51 of the U.N. Charter was invoked by states at least seventy-eight times between 2021 and 2025 (*Identification of new subjects: Further revised version of the working paper submitted by Mexico*, p. 3). This evolution reflects the changing

nature of international security challenges but simultaneously raises fundamental questions regarding the continued effectiveness of the Charter framework governing the use of force. The United Nations Charter has been amended and revised over eight decades only three times. All amendments were introduced in the 1960s and 1970s to expand the composition of the main UN organs with newly admitted countries from Asia and Africa. It may be necessary to reconsider this approach. However, given the difficulty of reaching an agreement, it might be more achievable to adopt the idea described by T. Ruys in the publication „‘Armed Attack’ and Article 51 of the UN Charter”, so the adoption of a UN General Assembly resolution that would provide a definition containing references to external manifestations of state actions, attributability of attacks by non-state actors to states, and in cases of lack of attributability, by specifying the criteria according to which cross-border attacks by non-state actors will reach the threshold of an "armed attack", as well as specifying the conditions required for invoking self-defence (Stemmet, p. 301).

The first research question concerned the extent to which the interpretation of Article 51 has expanded beyond its traditional meaning. The study shows that such expansion has been substantial. Since the attacks of 11 September 2001, a growing number of states have accepted, either explicitly or implicitly, that large-scale attacks carried out by non-state actors may trigger the right of self-defence. Furthermore, doctrines such as the "unwilling or unable" test and various formulations of anticipatory self-defence have gained increasing prominence in state practice, despite their uncertain status in positive international law and their limited support in international jurisprudence.

The second research question examined how states justify the use of force against non-state actors, anticipatory threats, and situations involving territorial states that are allegedly unable or unwilling to address threats emanating from their territory. The analysis reveals that states increasingly rely on flexible interpretations of necessity and self-defence in order to respond to contemporary security concerns. While such arguments are often presented as practical responses to terrorism and asymmetric warfare, they frequently depart from the restrictive approach adopted by the International Court of Justice. As a result, a growing gap can be observed between judicial interpretation and state practice.

The third research question addressed the consequences of these developments for the collective security system established by the United Nations. The findings suggest that the broadening interpretation of Article 51 carries significant risks for the stability of the international legal order. The more self-defence is interpreted expansively, the greater the danger that states will bypass the collective security mechanisms of the Security Council and resort to unilateral uses of force. Such practice may gradually weaken the prohibition on the use of force contained in Article 2(4), undermine confidence in international

institutions, and create opportunities for the instrumentalisation of legal arguments in pursuit of geopolitical objectives.

At the same time, this trend is not confined to any particular group of states. Western and non-Western powers alike have invoked expansive interpretations of self-defence in pursuit of their strategic interests. The resulting diversity of practice complicates efforts to identify clear customary rules and contributes to increasing legal uncertainty. Although state practice has evolved significantly, the evidence remains insufficient to conclude that a universally accepted customary norm has emerged permitting broad unilateral uses of force against non-state actors or on the basis of remote future threats.

Ultimately, the challenge facing contemporary international law is to reconcile the legitimate security concerns of states with the Charter's fundamental objective of limiting the use of force. The right of self-defence remains an indispensable component of the international legal order, but its continued expansion risks transforming an exceptional remedy into a general justification for military action. Preserving the balance originally embedded in Article 51 is therefore essential not only for the credibility of international law but also for the maintenance of international peace and security. Future developments should focus on clarifying the legal thresholds governing self-defence, particularly with regard to non-state actors, anticipatory action, and the relationship between state sovereignty and transnational threats. Without greater legal certainty, the tension between security and legality is likely to remain one of the defining challenges of the 21st century law on the use of force.

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