



Pre-Emptive and Preventive Self-Defense Reassessing Legality and Compliance under Article 51 of the United Nations Charter

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ABSTRACT

The contemporary international security environment has undergone profound transformations due to the emergence of non-state armed groups, transnational terrorism, cyber warfare, autonomous weapons systems, and hybrid forms of warfare. These developments have raised complex legal and policy questions regarding the scope and application of the right of self-defense under Article 51 of the United Nations Charter. Traditionally, the right of self-defense has been understood as a narrow exception to the general prohibition on the use of force embodied in Article 2(4) of the Charter and exercisable only in response to an armed attack. However, the changing nature of security threats has prompted several states to invoke broader interpretations of Article 51, particularly through claims of pre-emptive and preventive self-defense. This study critically examines the legality and compliance dimensions of pre-emptive and preventive self-defense within the framework of contemporary international law. It investigates the historical evolution of self-defense, the drafting history and purpose of Article 51, and the distinction between anticipatory, pre-emptive, and preventive uses of force. The study further explores how state practice, judicial decisions, and doctrinal writings have influenced the interpretation of Article 51 and assesses whether these developments have altered the normative framework governing the use of force. The research identifies a persistent tension between the textual requirements of Article 51 and evolving state practice, particularly in relation to military interventions undertaken against perceived future threats. It finds that while pre-emptive self-defense under narrowly defined conditions of imminence may be defensible under international law, preventive self-defense remains highly controversial and largely incompatible with the Charter framework. The study also reveals significant compliance challenges arising from unilateral interpretations of self-defense, the absence of universally accepted criteria for imminence, and the erosion of the collective security system established by the United Nations. The study recommends the development of clearer legal standards for assessing imminent threats, enhanced oversight by the United Nations Security Council, and the adoption of interpretative guidelines capable of addressing emerging security threats while preserving the integrity of the prohibition on the use of force. By reassessing Article 51 in light of twenty-first-century security challenges, this research contributes to contemporary international law scholarship by offering a balanced and normatively coherent framework for evaluating self-defense claims in an evolving global order.

Introduction

The right to self-defense is one of the several exceptions which are recognized in international law, and it has a pivotal position in international law, as one of the few exceptions to the general prohibition on the use of force provided in Article 2(4) of the United Nations Charter. Article 51 has always had two meanings, first the inherited right of the state to defend itself against armed attacks and second, the desire to uphold the collective security system as envisaged by the United Nations since the Charter was adopted in 1945. But new security challenges in the twenty-first century like transnational terrorism, cyber warfare, autonomous weapons systems and hybrid conflicts have significantly undermined classical conceptions of self-defense and fundamental questions about the legitimacy of anticipatory applications of force have been asked. The use of pre-emptive and preventive self-defense has been a hot topic in both the legal and political literature: states are increasingly using these doctrines to justify military action in advance of or in response to a perceived threat or attack. The lack of clear and widely accepted understanding of Article 51 on anticipatory self-defense has led to a variety of state practice levels, different interpretations and increasing doubts about state compliance with the principles of international law and international peace and security (Ahmad, U., Rehman, H., & Khan, A. B. 2023). In this light, this study offers a critical evaluation of the legality, scope and compliance problems of pre-emptive and preventive self-defense in the light of Article 51 of the UN Charter and the discussion of the evolution of the law of self-defense in the light of the present security realities, while preserving the integrity of the international legal order.

Background of the Study

The principle of prohibition of the use of force is one of the basic principles of modern international law. But, in the past war was considered a legitimate tool for statecraft, a form of sovereign prerogative. In pre-twentieth century times, states would often use war to defend their interests, to expand their territories, and to resolve political disagreements. Lacking a general legal rule about the use of force, military intervention was perceived as an accepted part of international relations. However, the two World Wars brought about a complete change in the international legal framework and led to a greater commitment to averting future wars and to collective security measures and limitations on war.

This was a revolutionary step with the adoption of the United Nations Charter in 1945. Under Article 2(4) of the Charter, there was a general ban on the threat or use of force against the territorial integrity or political independence of any state. This prohibition was a key feature of the post-war international law system and is now recognized as a rule of customary international law and as a peremptory norm of international law. The Charter was a vision of collective action to maintain peace and security through the Security Council of the United Nations as opposed to unilateral military action by individual states (Perisic, P. 2021).

The drafters of the Charter, despite this sweeping ban, felt that states had a natural right to protect themselves from armed aggression. Thus, in the event of an armed attack against one of the member states, Article 51 of the Charter leaves the right of individual and collective self-defense intact, until the Security Council takes action to restore international peace and security. Article 51 was an important balance between the need to maintain state sovereignty and the desire to avoid the unilateral use of force which could compromise international peace.

The interpretation of article 51 has been pretty simple in the past. It was a right of self-defense, which was normally regarded as a retaliatory right, to be exercised only in the event of an armed attack. This was further strengthened by the wording in Article 51 itself, which clearly specifies that the lawful use of self-defense must be in response to an 'armed attack'. It was reinforced by judicial decisions and State practice during the early years of the United Nations system.

But the nature of war has changed in the 21st century. Modern threats to security come not just from a traditional military attack by a nation. Instead, threats to the State are growing from transnational terrorist groups, cyber-attacks that can paralyze critical infrastructure, systems that operate largely without human control, and hybrid warfare – a strategy that incorporates military, economic, informational and cyber components. These threats now tend to become sudden and unpredictable, and there is a concern that the mere reaction to them under Article 51 might be too little, too late to protect national security.

The events of 11 September 2001 had an important impact on the debate on self-defense. As states began to adopt this interpretation, they began to claim that anticipatory measures taken in response to imminent threats by non-state actors and rogue States with weapons of mass destruction should be included in the concept of self-defense. This occasion reignited scholarly and political discussions on the legality of pre-emptive and preventative self-defense and whether the old limitations on Article 51 of the UN Charter are still appropriate in the face of changing security threats (Khamdan, M. 2025).

The new nature of warfare has thus led to a re-evaluation of the law relating to self-defense. Some believe that Article 51 needs to be more flexible to respond to modern threats, while others have argued that if it is stretched its use of force provision could render UN collective security structure vulnerable. This tension is the centerpiece of ongoing debates on international peace and security in the modern world.

Statement of the Problem

One of the most contentious issues in contemporary international law concerns the legality of pre-emptive and preventive self-defense under Article 51 of the United Nations Charter. Although the Charter expressly recognizes the inherent right of self-defense, it remains ambiguous regarding whether this right extends to military action undertaken before an armed attack has actually occurred. This ambiguity has generated profound disagreements among states, international courts, and legal scholars regarding the permissible scope of anticipatory uses of force.

The distinction between pre-emptive and preventive self-defense further complicates the legal discourse. Pre-emptive self-defense generally refers to the use of force against an imminent armed attack where delaying action would significantly increase the risk of harm. Preventive self-defense, by contrast, involves the use of force against a potential future threat that may not be immediate or certain. While some states have argued that both forms of self-defense are necessary in an age of terrorism and weapons of mass destruction, many scholars contend that preventive self-defense is incompatible with the textual and normative framework of Article 51.

The divergence between state practice and the formal requirements of Article 51 has created significant uncertainty regarding the legality of military interventions justified on self-defense

grounds. States have increasingly invoked expansive interpretations of self-defense to justify unilateral military actions, often without authorization from the Security Council. Such practices raise concerns about the erosion of the Charter system and the possibility that subjective threat perceptions may replace objective legal standards governing the use of force.

Furthermore, the absence of universally accepted criteria for determining the imminence of threats presents serious compliance challenges. Modern threats such as cyber-attacks, terrorist networks, and autonomous weapons systems do not fit neatly within traditional legal categories developed in response to conventional warfare. As a result, states may invoke self-defense in circumstances where the existence of an armed attack or imminent threat remains highly contested.

The resulting legal uncertainty poses a substantial challenge to the collective security system established by the United Nations. If states are permitted to determine unilaterally when force is justified, the prohibition on the use of force may gradually lose its normative significance. Consequently, there is an urgent need to reassess the legality and compliance dimensions of pre-emptive and preventive self-defense and to develop a coherent framework capable of addressing contemporary security challenges while preserving the fundamental principles of international law.

Research Questions

- Does Article 51 permit pre-emptive self-defense?
- Is preventive self-defense compatible with international law?
- How has state practice altered the interpretation of Article 51?
- What are the compliance challenges associated with modern self-defense claims?
- How should Article 51 be interpreted in the contemporary security environment?

Research Objectives

- To examine the legal basis of self-defense under Article 51.
- To analyze the distinction between pre-emptive and preventive self-defense.
- To assess state practice and judicial interpretation.
- To identify compliance challenges.
- To propose reforms for modern international law.

Historical Evolution of the Right of Self-Defense

The right to self-defense is one of the most crucial and oldest rules of international law. Its history is a testament to the ongoing tension between two conflicting aims of the international legal order: on the one hand, the right of the state to survive, and on the other, the international community's desire to avoid the flagrant abuse of force. Starting from the philosophical roots of natural law, the doctrine of self-defense has experienced considerable development because of changing political contexts, shifting ideas on sovereignty, and new threats to international peace

and security. The contemporary doctrine of self-defense is thus not only the result of treaty law but also the result of centuries of legal analysis, tradition and judicial precedent, which still influence the modern debate on the legitimacy of force in international affairs (Umapathy, G. 2025).

Self-Defense in Classical International Law

The right to self-defense has been found in natural law theories that saw self-preservation as an inherent and inalienable human right as well as a states' right. Natural law philosophers held that the right to life and security were principles of justice that prevailed over positive law. States, therefore, were sovereign political powers, which had the natural right to defend themselves against aggression when their existence or territorial integrity was challenged. It is a self-defense understanding that had been taken for granted long before the formation of modern international institutions and was well accepted as a natural outgrowth of sovereignty.

Hugo Grotius, a highly influential scholar in the early development of the doctrine of independence, was among the first and most influential to state this principle. Grotius made it clear that the right to self-defense was derived from natural reason and was a fundamental part of a state. His writings suggested that a State could use force not only if there was an attack, but also if a State faced an imminent attack without any peaceful means of repelling it. For Grotius, the employment of defensive force should proceed according to the rule of necessity and moderation, which would provide an early framework for balancing the necessity of war with the legal constraints. His concepts greatly shaped the development of common international law and helped to frame the intellectual underpinnings of subsequent arguments in favor of anticipatory self-defense (Tsaourias, N. 2025).

The concept of natural law in self-defense was further evolved by Emer de Vattel, whose works made a tremendous impact upon the international law of the eighteenth and nineteenth centuries. Vattel treated states as "moral persons" that had equal natural rights with individuals, including the right to maintain their independence and security. His position was that if a state is threatened with danger to its existence, it has an inherent right to defend itself, so long as the steps taken are necessary and proportional to the threat it is facing. The ideas of sovereignty and self-preservation in Vattel led to the general adoption of self-defense as a right committed to no treaties or international arrangements. His writings helped to affect state practice and the concept of self-defense as an exception to the general prohibition on use of force.

In classical international law, then, the right of self-defense was considered a natural and freely exercisable right of states. In an international system of which powers were decentralized and in which effective collective security institutions were lacking, states often adopted unilateral action to defend their interests. But this wide latitude of action granted to the States has generally resulted in abuses and in a repetition of conflicts, thus underscoring the need for more precise legal restrictions upon the use of self-defense.

The Caroline Incident and Customary International Law

The Caroline Incident had a major impact on the evolution of the principles of self-defense in customary international law from a general and common-law concept into a more codified concept. The Caroline Affair was an incident in 1837 in which British troops invaded the United

States and destroyed an American ship, the *Caroline*, which was suspected of aiding Canadian rebels who were fighting against British rule. The incident sparked a diplomatic war between Great Britain and the United States over the lawfulness of the use of force beyond the nation's borders for the purpose of self-defense.

The correspondence that ensued the event between the U.S. Secretary of State, Daniel Webster, and British officials resulted in one of the most influential precedents in international law. Webster claimed that to exercise the right of self-defense was justified only when the action was "instant, overwhelming, leaving no choice of means and no moment for deliberation. The *Caroline* formula, as it is known, was a formulation that introduced the necessary conditions of necessity, immediacy and proportionality as legal prerequisites for the use of defensive force (Lange, F. 2025).

The necessity requirement means that the act of self-defense can only be used if there are no reasonable peaceful means available to stop the threat. Defensive action should not be a choice of convenience or a strategy choice but the last resort. Also important is the principle of immediacy; that is, the threat and defensive response must occur in close temporal proximity. A state must show that the threat is real and imminent and cannot be avoided relying on self-defense. Finally, the principle of proportionality means that the defensive reaction is proportionate to the level of the attack and is no more than reasonably necessary to defend the attack and to restore security.

The *Caroline* formula has gained permanent importance because it shifted the right of self-defense from a wide political doctrine into a legal principle, based on objective criteria. Its principles are still of interest in modern discussions of customary international law and what constitutes anticipatory self-defense and were first formulated in the nineteenth century. In fact, the *Caroline* criteria are frequently invoked in modern discussions about pre-emptive self defense, preventive warfare, and new security challenges as a test to determine whether a use of force is legal or not (O'Meara, C. 2021).

The UN Charter Framework

Two world wars brought an end to the international law of that time and led to the creation of a complete system aimed at forbidding the use of force. The concept of the United Nations Charter in 1945 changed the history of self-defense by introducing the concept in a broader context of collective security. The Charter, unlike classical international law, which left a lot of room for states to use force, aimed to eliminate compelled armed action in favor of using institutional mechanisms to ensure international peace and security.

Article 2(4) of the Charter is the main pillar of this new legal order. It restricts the threat of force or its use against territorial integrity or political independence of any state in general. This is part of the community's commitment to "the prevention of all acts of aggressive warfare" and to the development of peaceful means of settling disagreements. The ban, however, does not mean absolute, and the Charter itself provides some exceptions to the non-use of force rule.

One of these exceptions is Article 51 of the Charter that guarantees the right of individual and collective self-defense. This confirms that States have the right to act in self-defense should they be attacked by an armed force until the Security Council has adopted the necessary measures to

ensure international peace and security. Article 51, therefore, maintains the age-old's right to self-defense, but also subjects its use to the wider purposes of collective security (Manzoor, B., et al., 2025).

Articles 39 and 42 support this in providing the Security Council with the power to identify threats to peace, violations of the peace or acts of aggression and approve collective action, if needed. The provisions show the Charter's emphasis on collective rather than unilateral action on security issues. In this regard, the balance between the prohibition on force, collective security, and individual self-defense is central to today's international legal framework.

The historical development of self-defense is an example of a process of narrowing the scope of the natural right, and of transforming it from a right available at will of the sovereign states to a right regulated by the law in a framework of collective security. However, modern threats like terrorism, cyber warfare, and new military technology still push the envelope for this model. A continuing problem in international law is how to balance the right of self-defense with the overall goal of peace and security in the world (Dumitrița, F. 2021).

Conceptual Distinction between Pre-Emptive and Preventive Self-Defense

The categorization of pre-emptive and preventive self-defense has become one of the most hotly debated international law and security concerns of the day. Although both notions require the application of force prior to armed attack, they differ considerably in the urgency of the threat, in the legal rationales they rely on, and in their ability to square with the UN Charter's Article 51. The rapid developments of military technology, transnational terrorism, cyber warfare and the spread of weapons of mass destruction have deepened discussion of the temporal dimensions of self-defense and the question of how far states may go in lawfully employing force, in order to prevent an attack, rather than merely respond to one. Thus, it is crucial to comprehend the conceptual difference between pre-emptive and preventive self-defense, to assess the legality of today's military interventions and the evolution of international law on the use of force for the future (Stoneman, L. 2024).

Pre-Emptive Self-Defense

Pre-emptive self-defense is the employment of force by a state in anticipation of an imminent armed attack which is imminent. It rests on the principle that if there is substantial evidence of an imminent attack from which a State cannot move, it is not legally obligated to be passive and wait for the first strike to come to it. The principle aims at balancing the right of self-defense with the overall ban on the use of force in the UN Charter. The principle of pre-emptive self-defense is that the law should not impose on a state the liability for incurring catastrophic damage when an aggressor has engaged in preparations for an inevitable attack.

Pre-emptive self-defense is only possible when there is an imminent threat. The threat should not be a speculative or hypothetical threat but should be one that when left unaddressed would significantly compromise the security of the victim's state. The need for clear and convincing evidence of hostile intent and ability to carry out the threatened attack is closely related to imminence. Anticipatory force can be used only when there is a strong suspicion or political animosity. Moreover, the necessity and proportionality principles are legal constraints that cannot be disregarded. Necessity means that there must be no reasonable non-violent means to

stop the attack, while proportionality is that the defensive measure must be limited to what is reasonably necessary to repel the attack (Sandin, M. 2021).

Pre-emptive self-defense is said to have been inaugurated by the Caroline incident of the nineteenth century, which allowed for self-defense when the need was "instant, overwhelming, leaving no choice of means and no moment for deliberation. This formulation has become a cornerstone of customary international law and is still used in the interpretation of Article 51 of the United Nations Charter today. The advocates of the Charter say that the right to anticipatory self-defense does not stop existing in cases of imminent danger, particularly in the era of fast military technologies that can result in tremendous mass destruction within a short time span.

Historical illustrations often quoted to support pre-emptive self-defense include the Six-Day War of 1967, during which Israel initiated military operations against its Arab neighbors after it saw a buildup of military forces and incidences of violence it interpreted as an imminent threat. In this same vein, during Cuba's Missile Crisis of 1962, the United States was faced with both the need to act if the Soviet Union were to deploy nuclear missiles in Cuba, as well as the legal prohibition to use force. The debate continues, however, as to whether the word 'imminence' is to be understood in a narrow sense, as meaning an attack must be immediately imminent, or a broader sense in view of the changes in security threats and technology (Sikubwabo, J. M. V. 2024).

Preventive Self-Defense

Preventive self-defense, as opposed to pre-emptive self-defense, is the taking of force by a state or non-state actor because the latter may pose a serious threat in the future, but before it becomes imminent. Therefore, preventive action is taken to address potential threats instead of active attacks. The goal is to defuse potential dangers before they grow into real military force and become a threat to national security.

A hallmark of preventive self-defense is the emphasis on long-term strategic evaluations and projections of future threats. Preventive action differs from pre-emptive self-defense in that it relies on the collection of information rather than the actual threat of attack. This inevitably brings some speculation to the legal analysis as states have to guess what another state has now, as well as what they could have in the future (Hu, X., & Liu, S. 2025).

The Iraq war of 2003 is the most contentious case of preventive self-defense. One part of the justification for military action was Iraq's alleged possession of weapons of mass destruction, and its potential threat to future international peace and security. But later inquiries into the matter did not validate those claims, and the legality of the intervention was heavily criticized. The Iraq experience brought into sharp focus the concerns that a doctrine of necessary preventive self-defense might be turned into a doctrine of preemptive unilateral force, either to prevent an "actual" threat or out of political expediency.

The concept of preventive self-defense has also been raised in the issue of nuclear proliferation. Those states that are threatened by adversaries acquiring nuclear weapons have said that such a delay could be strategically disastrous. However, critics argue that the doctrine of the preventive use of force is in direct contradiction with Article 51 of the United Nations Charter, which allows for self-defense "if an armed attack takes place.

This perspective suggests that the right to use force against speculative future threats would render the prohibition on the use of force to be ineffective, along with the loss of the strength of collective security institutions and the ability to exploit them for the purposes of foreign policy (Badalič, V. 2024).

Furthermore, the prevention of self-defense issues deep issues of international stability and legal security. The boundaries between defense and aggression could be drawn during a state's attack on others if it is allowed to do so on foundation of its own subjective perceptions of future risks. This would create a risk that the international legal order – which is established through objective legal rules – would become a matter of strategic calculations and unilateral evaluations of threats.

Comparative Analysis

The question of whether a threat is "pre-emptive" versus "preventive" self defense ultimately depends on the type and when the threat occurs. Pre-emptive self-defense would be used to prevent an imminent armed attack and is accepted at least to a certain degree by customary international law, in the light of the Caroline doctrine. It is based upon the concept of defensive necessity and aims to protect against an attack which in fact has already begun, if it has not yet started, practically. By contrast, preventive self-defense focuses on threats that are future and/or uncertain threats that have not yet happened and are only likely to happen. It's an expanded and much more controversial definition of self-defense that goes beyond the narrow idea of necessity and imminence.

The distinction is of great importance for the future of international law. Preventive self-defense is the subject of significant legal and normative challenges because it could undermine the ban on the use of force and could be used to justify unilateral military action, though many scholars consider it to be legal under strict conditions of imminent threat, necessity and proportionality. The discussion shows that the challenge for international law in the twenty-first century is to find the right balance between the security of states in the presence of new threats and the solidarity of the collective security system set up by the UN Charter (Umapathy, G. 2025).

Interpretation of Article 51 of the United Nations Charter

The question of the meaning of Article 51 of the United Nations Charter has been one of the most controversial in modern international law. At the core of the law on the use of force is the provision, which sets out the conditions in which a State can lawfully use self-defense. The Charter has been interpreted in different ways since its adoption in 1945, especially when it comes to the meaning of the right and the scope and boundaries of its exercise, given the developments in security threats and the evolution of armaments and conflict. The main issue around the right to self-defense is whether it is limited to responses to an armed attack, or whether it also extends to taking preemptive measures against threats that are about to happen (Chrysanthem, M. 2021).

Textual Interpretation

In the words of Article 51 in the Charter of the United Nations: "Nothing in the present Charter shall abridge the inherent right of individual or collective self-defense if an armed attack occurs

against a Member of the United Nations, until the Security Council has taken measures necessary to restore and maintain international peace and security. This provision has been widely litigated, particularly regarding the term "armed attack occurs. The textual interpretation is to apply the ordinary meaning of the words used by the drafters to determine the legal implications of such words.

The term "if an armed attack occurs" seems to create a clear time element for exercising self-defense. Literally, the right can only be used after an armed attack occurs. Armed attack occurs if is a conditional statement and means the past tense; this implies that the right to self-defense is a reactive right, not preventative. This is further supported by the drafting history of the Charter, which was adopted after the Second World War, with the aim of reducing the unilateral use of force and enhancing collective security under the auspices of the United Nations.

If we restrict the scope of Article 51, however, to the case of an actual armed attack, then the question remains: what would Article 51 have to say about a potential armed attack? If we limit the scope of Article 51 to the case of an actual armed attack, then we face the question: what would Article 51 have to say about a potential armed attack? In this interpretation, preventive or anticipatory uses of force do not fit into the framework of the Charter as they run counter to the prohibition of the use of force in Article 2(4). Restrictive interpretation sees Article 51 as an exception to the rule and holds that exceptions are to be given a narrow construction to maintain the integrity of the collective security system (Artbas, N. 2025).

In the case of *Military and Paramilitary Activities in and against Nicaragua*, the International Court of Justice has reminded the parties of the distinction between the gravest form of the use of force – which it refers to as armed attack – and lesser forms of interference. The Court was cautious and ruled that "self-defense" could be used only against an armed attack of "sufficient gravity". This interpretation has had a profound impact on the orthodox view on Article 51 and will continue to affect judicial thinking in future cases.

Expansive Interpretation

Although Article 51 is rather narrow, there is a wide current view among states and scholars that the article be understood expansively to embrace today's security challenges. Supporters believe that the Charter should not be read as if in isolation from the right to self-defense under customary international law. They argue that the "inherent right" in Article 51 has remained in force since the end of the Second World War, as it still does in pre-existing customary law, such as the right to take self-defensive measures before an imminent armed attack.

The doctrine of anticipatory self-defense is well supported by customary international law, including the *Caroline* incident in the nineteenth century. If so, then there was a need for self-defense that was "instant, overwhelming, leaving no choice of means and no moment for deliberation." Those who support an expansive reading believe that this principle has been carried over into the post-Charter era and remains in place to allow defensive measures to be taken if an attack is imminent and unavoidable.

Imminence is becoming an ever more central role in modern IR. Modern-day threats may come from non-state actors, terrorist groups, cyber activity and weapons of mass destruction, and delaying action until an attack has occurred could have grave consequences. Those who advocate

anticipatory self-defense believe that international law should evolve to reflect these truths and give states the right to take pre-emptive action to stop the “inevitable” harm from occurring.

The events of 11 September 2001 had a significant impact on this debate. In response to these attacks, several states began to argue for a wider understanding of self-defense, including against non-State actors trans-border operations. The military actions taken in Afghanistan were highly justified based upon the self-defense theory that the terrorist groups were threatening the nation both in the present and soon. This historical evolution has contributed to a more flexible interpretation of Article 51, which has taken into account new trends in warfare (Melin, C. V. 2021).

In addition, the nature of armed conflict has changed due to military advancements. The time required to respond to a cyberattack to defend critical infrastructure could be minimized in seconds; long-range missile systems and autonomous weapons could do the same in a matter of minutes. In such situations, it is argued that it is unrealistic and inconsistent to wait for an actual armed attack, which is the very purpose of self-defense, to trigger the right to use force. The broad interpretation is, therefore, an attempt to harmonize the Charter with the new threats by acknowledging the existence of anticipatory measures for threats that are about to occur.

Restrictive Interpretation

Despite these advances, limiting reading remains well-received both academically and in court. Under this interpretation, the use of force under Article 51 is only justified by an armed attack, not just a grave threat of an armed attack. Under this interpretation, Article 51 expressly mandates the use of force as a response to an armed attack, rather than a grave threat of an armed attack. The wording of the provision was taken as conclusive, and a wider reading is seen as inconsistent with the intention of the Charter to limit the use of force by one party.

One of the main arguments put forward by restrictionists is the maintenance of the collective security mechanism created by the United Nations. The Charter was conceived to shift the authority of the maintenance of international peace and security from the state level to the Security Council. Allowing states to make unilateral decisions about when such threats are most likely to be present will make this system more vulnerable to abuse. Restrictive interpretation is thus a crucial mechanism of protection against arbitrary and politicized uses of force.

One of the strongest critics of this is Ian Brownlie, who has made it clear that he is against anticipatory self-defense as it doesn't have a sufficient basis for legal action under the Charter. Brownlie suggested that Article 51 created two conditions for self-defense: an armed attack, and a condition of necessity. Brownlie made this argument, suggesting that Article 51 laid down two conditions for self-defense: an armed attack and a condition of necessity. He said any extension of that right would have the effect of eroding the principle of non-use of force and bringing uncertainty to international law.

Likewise, Christine Gray notes that state practice is not definitive evidence of the existence of a general right to anticipatory self-defense. She argues that giving broad interpretations can be used as a justification for unilaterally taking military action to prevent future threats. This would undermine the legal certainty and lead states to use force, but not according to the legal standard, but according to the subjective evaluation of danger.

Antonio Cassese also highlighted a restrictive interpretation of Article 51, recognizing the challenges of today's threats. He has said that changes to the self-defense law should be made through consensus among the nations, not by any one state. Cassese believes that respecting the rule of law in international affairs demands a respectful observance of the framework of the Charter, as well as careful circumscription of the conditions under which the use of force is justified (Tanimu, A. I. 2024).

The ongoing discussion about the breadth and scope of interpretation reflects the dichotomy between security and peace on an international level and the newfound security threats. Those with a more expansive interpretation are more flexible and adaptable, while those with a more restrictive interpretation are more concerned with the certainty of the law and collective security. This unsettled conflict constitutes one of the most important issues in modern international law and is still a determinant of the developing concept of the right of self-defense as articulated in Article 51 of the UN Charter.

Judicial Interpretation and International Jurisprudence

The practice of the International Court of Justice (ICJ) has influenced significantly the interpretation of the right of self-defense as provided in Article 51 of the United Nations Charter. In a series of precedent-setting cases and advisory opinions, the Court has established the law of armed attack; the law of necessity; the law of proportionality; and applications of self-defense to non-state actors. While judicial rulings have not necessarily clarified all Article 51 questions, they have helped define the parameters and extent of the right of self-defense in modern international law (Elgawari, Z. A. 2024).

The Nicaragua Case

The ICJ's 1986 decision in *Military and Paramilitary Activities in and against Nicaragua* (Nicaragua v. United States of America) is the most significant judicial judgment on the law of self-defense. The case was based on violations of the United States' support for the Contra rebels in Nicaragua and its military and paramilitary operations in the country. The United States tried to excuse itself on the grounds of collective self-defense.

The Court distinguished between the general use of force and the concept of 'armed attack' as used in Article 51. It had said that not all forms of force were an armed attack that would warrant the right to self-defense. Armed attacks occur when the use of force is of a nature or scale that constitutes an armed attack, defined as the most serious types of use of force, including—direct military invasion, bombardments, or sending of armed bands, whose actions are of a nature and scale that constitute an armed attack. In contrast, less severe levels of intervention, such as logistical support or financial aid to insurgents, do not necessarily constitute such intervention. The Court therefore created the doctrine of armed attack threshold, which remains a key factor in invoking the right to self-defense.

The Court also highlighted that, even if there is an armed attack, the right of self-defense is still subject to the existing norms of international law on necessity and proportionality. The defensive measures have to be carefully chosen to meet the attack only and have to be no more than is proportionate to the threat. Such principles were fundamental to customary international law and part of the framework of the Charter (das Neves, M. F. B. R. 2023).

The Court made other requirements for collective self-defense. It ruled that if a State is claiming to be acting in collective self-defense, it must show that the attacked State has declared itself to be the target of an armed attack and has made an express request for assistance. A lack of such a request is a violation of the law of collective military action. This decision, therefore, limited the scope of Article 51 and reiterated the importance of law as a determinant in using force.

Oil Platforms Case

The Court's jurisprudence on the issue of self-defense continued to evolve in *Oil Platforms (Islamic Republic of Iran v. United States of America)* (2003). The dispute was based on the attacks by the United States on Iranian oil platforms in the Persian Gulf, which the United States argued was in self-defense due to its alleged attacks on American vessels.

One of the most significant issues that the Court had to consider was the burden of proof for establishing an armed attack. The Court decided that it is the state invoking self-defense's responsibility to prove that it has been the target of an armed attack from another state. Suspicions or indirect allegations are not enough for use of force. The Court reviewed the evidence submitted by the United States and ruled that it had not presented the case in a convincing manner to prove that Iran was responsible for the attacks.

The Court also reiterated the principle of "proportionality." Even if it was determined that there had been an armed attack, the destruction of the oil platforms was determined to be an overreaction for the supposed threat to the United States. Defensive movements must be reasonable in relation to the type and amount of attack and may not be used as a form of revenge or punishment (Elmohtadybellah, A. 2026).

In addition, the Court stated that armed attack is a key element in the exercise of self-defense under Article 51. States may not invoke self-defense in response to threats or generalized security concerns that are uncertain. The *Oil Platforms* case thus further developed the evidentiary criteria for self-defense claims and further reinforced the conservative approach taken in *Nicaragua*.

Wall Advisory Opinion

In 2004, the *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* discussed significant issues, including the concept of self-defense in the face of non-state actors and the legal effects of territorial occupation. Israel said it was exercising its inherent right to protect itself from a "terror threat" coming from the occupied Palestinian territory in building the wall.

The Court disagreed with this submission and concluded that the right of self-defense under Article 51 is mostly applicable in relation to an armed attack by a State against another State. The Court found that the attacks by Israel were not from a foreign sovereign state, meaning there was no application of Article 51.

The *Advisory Opinion* has since sparked a lot of discussion, in part due to the fact that it seemed to have a rather limited understanding of the concept of self-defense against non-state actors. Critics in the country say that the Court has not done enough to reflect the increasing dangers of transnational terrorist groups not under state control. The *Opinion*, however, affirmed the

principle that the right of self-defense must be understood in the context of international law, and cannot be invoked except in compliance with the legal requirements provided by the Charter (Al-Alami, B. 2022).

The Court also highlighted that the security actions taken by occupying powers must be in accordance with international humanitarian law and international human rights law. States are not relieved of their duties under international law by the presence of security concerns, particularly when measures impact civilian populations and occupied areas.

Armed Activities Case

In *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, judgment was rendered in 2005 which further clarified the limits of self-defense in cases where cross-border activities and irregular armed groups are concerned. Uganda's military deployment in the DRC was justified as it was operating in self-defense against rebel groups from Congolese territory.

In examining whether attacks by irregular armed groups could ground the use of force in self-defense against another state, the Court drew inspiration from the principle of *al-jam'iyya*. The Court drew inspiration from the principle of *al-jam'iyya* when considering whether attacks by irregular armed groups could ground the use of force in self-defense against another state. It found that Uganda failed to prove that the DRC was involved in the actions of the rebel groups and that Uganda itself had initiated an armed attack against itself. It was therefore impossible to satisfy the conditions laid out in Article 51.

The Court also ruled that Uganda's military operation and occupation of Congolese territory was not in accordance with the laws of self-defense. Any military action across borders should meet the conditions of necessity, proportionality, and should only be aimed at the armed attack itself. Under the circumstances, there was no way to justify the military occupation and the wide territorial control.

The *Armed Activities* case is of special importance, as it concerns the phenomenon of armed groups across borders that has become more frequent these days. The Court recognized the security threats they represent but was guarded about how far it would go in granting them the right of self-defense beyond what Article 51 would allow. The judgment once again confirmed that the use of force is an exceptional measure, which falls under strict legal conditions (Thomas, S. R. 2024).

Collectively, these rulings have led to a significant evolution of the understanding of Article 51 of the United Nations Charter. They conclude that the right to self-defense is subject to special conditions: the armed attack must actually occur, the exercise of the right must be necessary, and it must be proportionate to the threat faced, both in terms of the means used and the ends achieved. They also detail the principles governing the scope and conduct of that right, limiting it to the defense of the person, property or state, and subjecting it to strict evidence and procedure. While the question of anticipatory self-defense and non-state actors is still open to debate, international jurisprudence always stresses that any use of force should remain well grounded in the collective security framework of the United Nations and the rule of law.

State Practice and Contemporary Controversies

State practice has had a significant impact on the modern concept of self-defense as enshrined in the United Nations Charter under article 51, with powerful states reacting to new security challenges. The right of self-defense has been the subject of many debates over its extent and restrictions due to transnational terrorism, the proliferation of weapons of mass destruction, and the growing influence of non-state actors. The experiences of the United States, Israel and Russia are therefore significant examples of the conflicts between older and new understandings of Article 51. They have led to much discussion in the law on preventive self-defense, anticipatory self-defense, and international legal order.

The United States and the Bush Doctrine

The events of 11 September 2001 were a turning point in the development of the law of self-defense. The attacks were carried out by the terrorist organization Al-Qaeda, causing unprecedented loss of life and raising doubts on the usual interpretation of Article 51 as being confined to armed attacks by States. In response, the United States adopted an overly broad definition of self-defense which applied to non-state actors who were acting on foreign soil. There was broad international consensus that the attacks were an armed attack within the meaning of Article 51 and that the right of the United States to use force in self-defense was well supported.

After these attacks, the Bush administration developed what came to be known as the Bush Doctrine. The doctrine had a significant impact on the conventional concept of self-defense, which broadened by arguing the justification for preemptive action against a real or potential armed attack. The doctrine held that states should not have to wait until threats were imminent—the classical definition of the word if there was a risk of such an occurrence in the modern context of terrorism and weapons of mass destruction. Rather, a military response was deemed to be required to prevent threats from reaching full fruition.

This strategic change was expressed in the National Security Strategy of the year 2002. The document claimed that the old notions of deterrence were not applicable to terrorist groups and rogue states who wanted to acquire weapons of mass destruction. The United States, therefore, had the prerogative to take pre-emptive or preventive action against serious and imminent threat. The National Security Strategy was a far cry from the narrow reading of Article 51 and prompted a great deal of commentary on the legal contours of preventive self-defense under international law (Stahn, C. 2025).

The Bush Doctrine was also the basis for the war on terror. The war in Afghanistan has been primarily justified in terms of its defense of the Afghan people from Al-Qaeda and the Taliban regime that provided them sanctuary. But the implications of the doctrine extended beyond that, as the expansion of its reach could undermine the non-use of force clause in Article 2(4) of the United Nations Charter. Advocates of the regime's "treaty" proposal put forth by critics contended that the states could, in the future, decide what constitutes a threat and, therefore, what is legal for them to intervene in.

Iraq War 2003

The 2003 Iraq war is one of the most controversial cases of preventive self-defense, in modern international law. The U.S. and its allies had put forward several legal arguments to support the invasion of Iraq. The main reason was the claim of the existence of weapons of mass destruction (WMDs) in Iraq and their imminent threat to international peace and security. The U.S. insisted preventive military action was required to neutralize the threat before Iraq could acquire such weapons and pass them on to terrorist groups.

The second argument was based on the principle of "preventive self-defense. The United States made the argument that the specific threats of weapons of mass destruction and terrorism necessitated a greater understanding of self-defense, and that states would be justified in acting against future threats even if they had not been attacked. It was a new development from the old doctrine of imminence which had been laid down in customary international law, and which greatly broadened the basis for justifiable use of force.

The coalition also pointed to past Security Council resolutions on Iraq, particularly those passed after the Gulf War, as evidence that Iraq's failure to respect these led to a rehashing of earlier resolutions for the use of force. This was, however, strongly disputed by many states, who argued that there should be explicit authorization for military action by the Security Council.

Academics, governments, and worldwide institutions had a lot to criticize the Iraq War. The critics, who were accusing the invasion of breaching Article 51, pointed out that Iraq had not been attacked with arms and that there was no credible evidence that it poses a threat. Further research did not find any current stockpiles of WMDs, thus discounting one of the main reasons for the invasion. Overall, the lack of evidence hurts the credibility of claims to preventive self-defense and sets back efforts to curb the possibility that it could become a justification for unilateral uses of force (DURMUSLAR, T., & KAYA, G. 2024)

Furthermore, many commentators claimed the Iraq War undermined the international legal order by bypassing the concept of collective security in the UN Charter. The invasion drew attention to the risks of unilaterally acting in response to the potential threats and made it clear how crucial it is to have clear legal boundaries for force use.

Israel and Anticipatory Self-Defense

The idea of anticipatory self-defense has long been a benchmark for Israel's military operations in the face of existential threats. The most notable instance is the Six-Day War of 1967. Israel, which had seen an increase in hostile military activity, the closure of the Straits of Tiran and the military preparations around Israel had caused a perceived imminent threat that demanded pre-emptive military action. The Six Days War was thought to be one of the best historical examples of anticipatory self-defense as the threat was imminent and tangible.

Israel has also argued for 'anticipatory self-defense' when it comes to responding to nuclear sites it believes pose a threat to its national security. The airstrike on Iraq's Osirak nuclear reactor in 1981, and later other nuclear facilities in other countries, were considered as measures to be taken to stop the rise of "existential threats. These actions have been controversial however, as the threats that were alleged were not in the traditional sense imminent per customary international law (Gotian, B. 2023).

Israel has also recently increased its use of self-defense as grounds for military attacks on non-state actors like militant groups on other countries' territory. Israel has argued that under the doctrine of "self-defense," it has the right to protect itself from non-state armed groups and their attacks when the territorial state is not able or not willing to stop them. This position has shaped the current debate on the relationship between Article 51 and non-state actors, but there are divergent views on the legal extent to which that can happen.

Russia and Ukraine

The invasion of Ukraine by the Russian Federation has created the biggest debate of its time related to the interpretation of Article 51. There is a significant debate today on how to understand Article 51 in the context of the Russian invasion of Ukraine. Russia put forward several legal arguments for its military intervention. It was operating in collective self-defense on behalf of "self-proclaimed" governments of Donetsk and Luhansk and insisted these regions had asked for help in combating "aggression" from Ukraine. Russia also argued that Russia had the right to protect Russian citizens and Russian speakers in Ukraine.

Alongside this, the Russians offered a preventive argument saying that the growing military alliances and the perceived threat from Ukraine made it necessary to take pre-emptive measures to protect Russian security interests. The arguments are similar to the broader arguments of preventive self-defense that have been advanced elsewhere.

But from an international law point of view, these have been rejected as justifications. The overwhelming majority of scholars hold the view that the conditions were not met for application of Article 51, as there was no armed attack by Ukraine against Russia. Moreover, the parties to whom Russia claimed collective self-defense did not have wide international acceptance as sovereign states, in the sense of Article 51. In addition, the preventive considerations given by Russia have been accused of the lack of the necessary elements of necessity and imminence under customary international law (Gezahegne, A. 2023).

But the international response has been just as tremendous. The UN General Assembly condemned the invasion, affirming Ukraine's sovereignty, territorial integrity and political independence, in a motion that was passed by an overwhelming vote. The ongoing support of the international community for the principles contained in the UN Charter and the continued rejection of the idea of 'broad claims of preventive or unilateral self-defense' under the UN Charter, which are inherent in these resolutions, further demonstrate the international community's commitment to international law. These resolutions further illustrate the international community's commitment to international law, which had been rejected in broad terms of 'preventive or unilateral self-defense' under the UN Charter.

Compliance Challenges under Article 51

One of the most basic exceptions to the general rule on the use of force in the international sphere is the right of self-defense, with its expression in Article 51 of the United Nations Charter. The Charter provides states with a right to defend themselves against armed attacks, but in the twenty-first century, there have been many practical compliance issues. The scope and limits of self-defense have come under debate because of contemporary security challenges, such as transnational terrorism, cyber warfare, proliferation, and the growing prominence of non-state

actors. The effective implementation of Article 51 has been hindered by a lack of legal clarity, the abuse of the concept of legitimate self-defense by states, the weakness of the United Nations Security Council and differing understandings of the concept of self-defense among different groups of states. The problems have given rise to pertinent reflections about the solidity of the international legal order and the continuity of the system of collective security provided by the United Nations Charter.

Ambiguity of Imminence

Under Article 51, one of the greatest issues of compliance is the interpretation of the term of imminence. Traditionally, customary international law has demanded that the immediacy of the threat, the overwhelming nature of the necessity, and the lack of any alternative to self-defense must be present. But in modern international affairs there is no universally accepted definition of an imminent armed attack. This ambiguity has grown more problematic in the face of the new threats states face that are sometimes not clearly defined as interstate warfare.

The rise of terrorist groups who can attack on short notice across borders and the rise of advanced weaponry technologies have led some States to suggest a more expansive concept of imminence. Under this theory, it is not necessary for the states to take preventive action until an attack has actually taken place. Instead, they should be allowed to act if there is credible information that a serious threat is emerging. Other States, however, argue that the broadening of the concept of imminence would lead to the weakening of the legal limits of Article 51 and an opening for abuse. They say that self-defense must not be extended beyond the case of one who faces a real and imminent threat (Shaw, A. 2025).

However, there has been no consensus on a definition which has led to different interpretations between states and international scholars. There are states that prefer a narrow view, reflecting the classical principles laid down by customary international law, and others that hold a more liberal opinion compatible with the changes in security conditions of our times. This separation has left us with the confusion that sows doubts and seeds of difficulty regarding the difference between legal anticipatory self-defense and illegal preventive military action. Therefore, the uncertainty associated with the 'imminence' of the threat continues to be one of the main challenges to securing regular and uniform implementation of Article 51.

Abuse of Self Defense Claims

A second issue is the increasing practice by the States of invoking self-defense as a basis for military operations that may not meet the standards of international law. Article 51 was supposed to be a last resort to maintain international peace and security, but some countries have used their interpretation of self-defense to further their political and strategic goals. This has sparked worries about the "self-defense" being misused and about the weakening of the ban on use of force.

One of the largest dangers of wide self-defense arguments is expansionist policies. The territorial claims of states, or geopolitical interests, can be defined as defensive to legitimize military intervention. This is especially problematic when the use of force is perceived as being aggressive rather than self-defensive, and the authenticity of Article 51 as a legal remedy to prevent the abuse of force is undermined.

The use of self-defense is also involved in the political misuse that has been increasingly observed in modern international relations. Governments can declare “security threats” for military action that is based on political reasons at home or on foreign policy goals. There is also no independent way of verifying the legality of claims of “self-defense” made in the heat of the moment, which further raises the likelihood of political manipulation. After the military action, undoing the effects is sometimes hard to achieve even after the true or claimed reasons for action are discredited or disputed (Lilienthal, G., Rahim, F., & Azreem, S. 2025).

Strategic arguments have similarly broadened the understanding of self-defense to include its scope. States are claiming there is a need to take preventative military action to deal with new threats before they are present. In a debate on whether states should be permitted to use force in response to potential threats, some argue that preventive self-defense is justified under today's threats because it serves to disarm, while others oppose it on the grounds that it would give states permission to act in anticipation of future dangers. Such a strategy would enable the “self-defense” defense to become a much wider one for military action and potentially an unlimited one, undermining the international law order.

Weaknesses of the Security Council

The effectiveness of Article 51 is closely related to the role of the United Nations Security Council, which is primarily responsible for the maintenance of international peace and security. But the structural and political flaws of the Security Council have hampered it in its efforts to respond to conflict over self-defense right claims effectively.

One of the main obstacles is the veto of the five permanent members of the Security Council. Among these states, there is often disagreement about politics that hinders the Council from taking timely and decisive action on issues of use of force. The veto can be exercised to prevent adoption of resolutions calling for condemnation of illegal actions or for collective actions in case of a conflict in which the Permanent Members have strategic interests. Consequently, the Security Council seems to lack a common purpose and is not always able to apply the principles outlined in the Charter on a consistent basis.

Another area of weakness is delayed responses. International crises often develop very quickly, and quick action and effective measures must be taken. But the process of negotiations within the Security Council of the UN is long and politically complicated. When consensus is reached, the conflict could have reached an advanced stage, making the Council's role in the restoration of peace or averting further violations of international law less effective (Kumar, N. 2026).

The impartial application of the collective security system has also eroded confidence in it. Critics question the use of uniform international legal standards by the Security Council and cite the effect of politics on the Council's enforcement decisions. In some states, a great amount of attention and sanctions are given to them for similar acts while other states get comparatively less. A sense of disunity diminishes the legitimacy of the Security Council and fosters unilateral responses by States to protect themselves at the expense of collective action in compliance with the Charter.

Fragmentation of International Consensus

Another compliance issue is the lack of consensus internationally in the interpretation of Article 51. Different states have different opinions on what is allowed or not in the exercise of self-defense, a consequence of variations in historical experiences, security concerns, and geopolitical interests. Throughout the Western world, many states have espoused an unusually liberal reading of the concept of self-defense, especially in the wake of the terrorist attacks and threats from non-state actors. They believe that Article 51 should be understood in an adaptive way to allow anticipatory measures in some instances, given the current threats to security. This strategy focuses on the imperative to be ready for changing threats for them to become catastrophic attacks. However, numerous developing countries still promote a more conservative view. They are influenced by fears that a broad definition of self-defense could be used by stronger states to intervene in weaker states. Thus, they state that it is important to keep "state sovereignty, territorial integrity, and the prohibition on the use of force as the fundamental aspects of international law. Emerging powers have taken a variety of stances, and typically mixed elements of both viewpoints. These states acknowledge that the nature of security threats is shifting but also are concerned about the unilateral application of force and the erosion of multilateral institutions (U., Gayathri. 2025). Their views reflect the difficulties in securing a 'consensus' interpretation of Article 51 in a multipolar international system. The erosion of international unity has important consequences for the future of the law of self-defense. If states have not reached consensus on the intent and scope of Article 51, there is potential for further differences in practice, which may lead to greater uncertainty with respect to the scope of the provisions and the potential for political conflict. Enhancing the implementation of Article 51 needs to be complemented with a renewed commitment to the principles of the United Nations Charter and to multilateralism and collective security.

Conclusion

Since the dawn of post-Second World War international law, the right of self-defense under Article 51 of the United Nations Charter has been one of the most rapidly developing and debated fields of international law. Self-defense was originally designed as a narrow exception from the ban on use of force under Article 2(4) of the Charter for the use of force and was supposed to take place within a system of collective security, under the supervision of the United Nations Security Council. But the nature of warfare has changed. The advent of transnational terrorism, proliferation of weapons of mass destruction, cyber warfare and the use of AI in warfare have altered the strategic world in which Article 51 is used. These developments have called for a full reconsideration of the right of self-defense as it exists today in terms of its legality, scope, and compliance issues. This study presents a number of challenges for the classic use of Article 51 in the context of contemporary warfare. The classic concept of self-defense, which held that the lawful use of force could only be justified in the event of an actual armed attack, emerged in an era when threats were mostly confined to overseas or visible spheres and had a limited geographical extent. New threats, however, are usually technologically sophisticated, decentralized and can have cataclysmic impact within a matter of days. Terrorist groups do not operate within states' borders, a single soldier may not cross any border and disable critical infrastructure through cyber attack, and there is a growing debate over accountability and attribution over autonomous weapons systems. The developments highlight the drawbacks of the traditional legal categories and question the relevance of the current

interpretation of the Article 51. The study also concludes that, while pre-emptive self-defense can be legitimate in limited situations where there is an actual armed attack imminent, it remains one of the most controversial doctrines in international law. Historical state practice and customary international law in general, and the lessons gleaned from the Caroline incident in particular, highlight the concept that anticipation may be lawful when the circumstances were immediate, overwhelming, and affording no opportunity for deliberation. This small exception still has a legal significance today, if evidence shows an immediate and unavoidable danger. But there is no consensus at international level on the concept of 'imminence', which has led to a variety of interpretations in many states and raised questions about the legitimate scope of pre-emptive measures. Accordingly, anticipatory self-defense may be consistent with international law in exceptional cases, but it will have to be limited to the strict conditions of necessity, proportionality and objective evidence. In contrast, the concept of preventive self-defense is not broadly accepted in the current international law. Preventive military action is based on the application of force to anticipated and potential threats which are neither imminent nor inevitable. This is very different from the spirit and intent of Article 51, and may be contrary to the spirit of the prohibition on the use of force, which is one of the fundamental principles of the United Nations Charter. The Iraq War of 2003 is a case in point of the legal and political risks of preventive self-defense. The fact that no weapons of mass destruction were found and that broad criticism has been leveled against the legal arguments made for war points to the dangers of allowing states to go to war on the basis of inchoate estimates of potential future threats. The lack of state practice and *opinio juris* further indicate that the doctrine of preventive self-defense is no longer an accepted customary international law. It also finds that current state use of force practice is increasingly moving away from the Charter of the rights and freedoms that establish the framework for the use of force. To justify military operations against non-state actors, cross-border counterterrorism operations, cyber operations, and "preventive" measures against new threats, several states have expanded the definition of "self-defense." Although they may well have been motivated by national security concerns, these practices have led to the gradual weakening of the legal restrictions set by Article 51. The concept of self-defense is even further confused and formulated in divergent ways by major powers. This fragmentation of interpretations of the law poses a danger to the predictability and stability of the international legal system and questions the future effectiveness of the collective security system. The research also concludes that new challenges like cyber warfare, artificial intelligence, and terrorism require a review of the law of necessity when utilizing self-defense. The traditional structure of Article 51 does not do justice to describe the clear situations, which are common in the counterterrorism context, where other actors, including terrorist groups outside the effective control of states, act outside the direct control of the state, or where autonomous weapons systems make decisions without state direction, and cyberattacks are conducted anonymously over multiple jurisdictions. International law thus must develop to cover these changes, but without losing sight of the principles of sovereignty, necessity, proportionality, and the prohibition on the use of force in an unlawful way. Legal adaptation should not involve the unlimited expansion of self-defense, but rather the formulation of well-balanced rules which would take modern security problems into account, while at the same time promoting international peace and stability. Based on these results, several recommendations are raised for the reinforcement of Art. 51 during the twenty-first century. First, the word "imminence" requires a definition that is reached by international agreement. More clarity about when anticipatory self-defense may be available would help to lessen the legal uncertainty and risk of

misuse. A more precise concept of imminence should be based on historical law and current security issues and maintain the exceptional nature of force under tight legal limits. Second, the international community should create comprehensive legal principles on cyber self-defense. Current international law offers only some guidance on when cyber operations amount to an armed attack or the scope of measures that are lawful to undertake in response to an attack. The creation of internationally agreed principles on attribution, necessity, proportionality, and state responsibility in cyberspace would greatly enhance legal clarity and peaceful handling of cyber conflicts. Third, there is a need to strengthen the regulation of military use of AI. The proliferation of AI-powered weaponry systems presents the government with far-reaching legal and ethical issues around human control, accountability, proportionality, and adherence to international humanitarian law. The development of these new military technologies requires international cooperation to establish a clear legal framework in which the remaining human responsibility and the possibility of misuse of autonomous systems in armed conflicts is considered. Fourth, the United Nations' inspection system for the collective security system should be expanded to make it more effective. Measures aimed at enhancing the credibility of multilateral institutions, including by increasing confidence in the use of the Security Council, improving transparency in evaluating claims to self-defense and making faster decisions on international crises would help to build confidence in multilateral institutions and limit unilateral use of force. Lastly, there must be greater uniformity in how the law of self-defense is practiced at both the state and judicial levels for the long-term stability of the law of self-defense. The necessity, proportionality, and good faith of the interpretation of Article 51, also through the mediation of international courts, tribunals and state institutions, should continue to be stressed. A principled and coherent policy on self-defense will help to ensure the balance between the legitimate security interests of states and the larger goal of international peace and security. To conclude, the evolution of warfare is a major challenge for Article 51's traditional concept of self-defense. International law should be flexible in addressing new challenges but not undermine the core principles of the United Nations Charter. The international community's ability to balance security with the long-term principles of legality, multilateralism, and the rule of law will be the key to the future legitimacy of self-defense.

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