

INDEX

Abass, Ademola, 169	African Union/United Nations Force in Sudan
Abbott, Tony, 418	(UNAMID), 239–40
Abductions as law enforcement actions, 113-14	authorisation of use of force by, 169-70
Abyssinia, Italian conquest of, 29	Burundi, intervention in, 477
Accumulation of events theory, 290-6	consent to intervention and, 476-7
cyber attacks and, 294	Constitutive Act (2000), 169-70, 213, 214,
determination of threshold, 295	476–7
ICJ and, 291, 402-3	Darfur, intervention in, 170, 213
lex lata, not deemed, 295	Libya and
necessity principle and, 263-312	authorisation of force by Security Council,
non-state actors, self-defence against,	191
402-3	Responsibility to Protect, 214
proportionality principle and, 295-6, 321-2	peacekeeping by, 221
Soleimani drone strike and, 293-4	UN Charter, conflict with, 169-70
in state practice, 291–4	Agenda for Peace, 142-3
temporal frequency and, 295	Aggression, crime of
Act of Chapultepec, 259	generally, 5
Afghanistan	defined, 57-8
al-Qaida in, 313, 415–16	Definition of Aggression (1974) (See Definition
collective self-defence and, 336	of Aggression (1974))
consent to intervention and, 474	historical background, 55-7
drones, use in, 438	humanitarian intervention versus, 59-60, 61
NATO intervention in, 172	ICC and
Northern Alliance, 368	defined, 57-8
Operation Enduring Freedom, 313, 368, 403,	humanitarian intervention and, 59-60
407-8	inclusion of, 57
Soviet intervention in, 73, 346, 470-1, 474	jurisdiction, impact of, 61-4
Taliban, 313, 320-1, 368, 403, 407-8, 411-12,	use of force distinguished, 107, 108
415–16	ICJ and, 108
"unable or unwilling" doctrine and, 415–16	ILC on, 56-7
US and	Kellogg-Briand Pact not recognising, 56
air strikes by, 309, 310, 411	as "manifest" violation of UN Charter, 58-60
attack on al-Qaida by as self-defence, 266,	mens rea element, 60-1
273, 310, 313, 320-1, 368-9, 407-8,	mistake of law and, 61
411–12	Security Council and
African National Congress, 459	generally, 138, 143-4
African Union (AU)	determinations by, 70, 147-8
African Union Transition Mission in Somalia	self-defence versus, 59, 60-1
(ATMIS), 237–8	specific gravity element, 62
African Union/United Nations Force in	UN Charter and, 57–8
Somalia (AMISOM), 237-8	use of force distinguished, 107-9



Ago, Robert, 300, 319	al-Shabaab, 237-8, 406, 415-16
Aideed, Mohamed Farrah, 237	al-Wazir, Khalil Ibrahim, 114–17
Aircraft	Angola
foreign civil aircraft, law enforcement actions	Lusaka Ceasefire Agreement (1999), 240
against, 118	South African aggression against, 147
as weapons, 96	Annan, Kofi, 48, 142-3, 374-5
Akande, Dapo, 414, 469	Anticipatory self-defence
Akehurst, Michael, 34	generally, 360-1, 398
al-Assad, Bashar, 216, 315, 421, 422, 423, 425,	expansionist approach, 361
458, 462, 512-13, 515-16	ICJ and, 362–3
Albania	international jurisprudence, 362-3
authorisation of force by Security Council in,	restrictionist approach, 361-2
159, 178	Six Day War and, 363–4
Corfu Channel case and (See Corfu Channel	Aquinas, Thomas, 24-5
case (ICJ 1949))	Arab League
Albright, Madeleine, 284, 506	Iraq, opposition to intervention in, 198-9
Algeria on pre-emptive self-defence, 367-8	Libya, authorisation of force by Security
Alkhatib, Mouaz, 458	Council and, 191
Allen, Jonathan, 115	Security Council, relation to, 169
al-Liby, Abu Anas, 114-20, 436	Syria and, 217
"All necessary means"	Arab Spring (2011), 37
generally, 225	Argentina
authorisation of use of force by Security	abductions in, 113–20
Council and, 158–61, 175	Falkland Islands, seizure of, 35, 147, 302,
China and, 42	353-4 (See also Falklands War (1982))
Côte d'Ivoire and, 195-6	Armed Activities case (ICJ 2005)
Gulf War and, 41, 157-8, 201	accumulation of events theory and, 291
Iraq and, 179, 180, 497-8	consent to intervention and, 451
Kosovo and, 501–2	non-state actors, self-defence against, 400,
Libya and, 215	409–10, 439
Mali and, 242–3	pre-emptive self-defence and, 378-9
peacekeeping and, 234	Armed attack
Somalia and, 237–8	assassination attempts as, 98, 283-4
use of force versus, 189	collective self-defence, required for, 339
al Moallem, Walid, 423	determining when begins, 357-8
al-Mouhandis, Abu Mahdi, 267-8	ICJ and
al-Nusrah Front, 465, 466	generally, 285
al-Qaida	issues of proof, 272–3
in Afghanistan, 313, 415-16	mens rea element, 274
armed attacks by, 264–5	military vessels, 268
non-state actors, self-defence against, 2, 403	non-state actors as perpetrators, 262, 263
self-defence and, 266, 273, 313, 320-1	proportional forcible countermeasures, 290
targeted killings of, 114-17, 431	scale and effects test, 286
as terrorist group, 466	use of force distinguished, 106, 107, 276-81,
US and	290
Afghanistan, intervention in, 368, 403	interception of, 359-60
attack by as self-defence, 266, 273, 310, 313,	9/11 attacks as, 401-2
320-1, 368-9, 407-8	non-state actors, self-defence against
US embassies, armed attacks on, 273, 411	distinguished, 403
US attack on as self-defence, 411-12	self-defence, required for
in Yemen, 469	generally, 105–6, 261–2
al-Qaida in the Islamic Maghreb (AQIM), 242	cyber attacks, 265-6, 271-2



529 Index

embassies, 269-71	ILC on, 308-9
hostile intent, 275	necessity principle and, 307
"interests," 269-70	non-state actors, self-defence against
issues of proof, 272-3	distinguished, 403
mens rea element, 274-6	prohibition on, 307-8
military vessels, 268	proportionality principle and, 307
non-state actors as perpetrators, 263-6	purpose of, 306–7
perpetrators of, 262-6	self-defence distinguished, 291-310,
targets of, 267-72	313–15
use of force in territory of other states, 266	Special Arbitral Tribunal and, 307
Soleimani drone strike and, 267-8	UN Charter and, 307-8
use of force distinguished	Armenia
generally, 105–6	Bishkek Protocol (1994), 303-4
accumulation of events theory, 290-6 (See	Nagorno-Karabakh, dispute with Azerbaijan
also Accumulation of events theory)	regarding, 302-4
assassination attempts, 98, 283-4	Arms embargoes
assisting rebels, 277	Iran, 160–1
border incidents, 277, 285	Libya, 190, 192, 458
criticism of distinction, 278, 279-80	Sierra Leone, 204–5
cyber attacks and, 285-9	Southern Rhodesia, 156
de miminis threshold, 276-7	Ashburton, Lord (Alexander Baring), 296
difficulty in drawing distinction, 280-1	Assassination attempts
ICJ and, 278–81, 290	as armed attack, 98, 283-4
proportional forcible countermeasures, 290	armed reprisals in response to, 310
in state practice, 281–5	necessity principle and, 283-312
supply of arms, 279	non-state actors, self-defence against, 405
third state involvement, attempts to limit,	protection of nationals abroad and, 327, 330
278	Association of Southeast Asian Nations (ASEAN)
armed force	cyber operations and, 84–5
generally, 94	on humanitarian intervention, 495-6
actual use of weapons not required, 96-7	Augustine, 24–5
aircraft as weapons, 96	Australia
as covered by UN Charter, 93-4	Bali bombings (2002), 377
cyber attacks as, 96	on imminence, 384
cyber operations as, 98–102	Iraq, air strikes in, 453
effects created, 96–102	Iraq War and, 1, 180
harm to persons or property not required,	on pre-emptive self-defence, 372, 377
97–8	"unable or unwilling" doctrine and, 416,
ICJ and, 95-6, 99, 102-4	420-1, 427
indirect use of, 102–5	Australia, New Zealand and United States Security
means used, 95-6	Treaty (ANZUS) (1951), 337–8, 350
non-state actors and, 104-5	Authorisation of use of force by Security Council.
scale and effects test, 98-9, 286	See also specific country
targeted killings as, 96	generally, 1, 18, 135-7, 175
types of weapons used, 95-6	"all necessary means" and, 158-61, 175
UN Charter Article 2(4) and, 93-4, 95	authorisation model generally, 136, 172-3,
armed reprisals	217–18
generally, 261	breadth and scope of authorisation
credibility gap regarding, 313-15	generally, 175, 189
defined, 306–7	Côte d'Ivoire, 195–6
delay, relevance of, 310-14	Libya (See Libya)

ICJ and, 308

civilians, protection of, 160



Authorisation of use of force by Security Council.	Bahrain, Islamic State and, 418
(cont.)	Baker, James, 183
Cold War, during, 153-6	Bali bombings (2002), 377
concerns regarding authorisation model, 161-5	Bangladesh, humanitarian intervention in, 494-5
development of authorisation method, 156-8	Ban Ki-moon, 142–3
domestic matters, applicability to, 164-5	Bannelier-Christakis, Karine, 466-7
embargoes, 160	Barbados, intervention in Grenada, 327-8
historical background, 136, 153	Barrow, Adama, 446, 449-50
humanitarian aid, 158–60	Basic Principles on the Use of Force and Firearms
ICJ and, 162	by Law Enforcement Officials, 99-117
implied authorisation	Belgium
generally, 175, 196	collective self-defence and, 341
Iraq, 197-9	Congo and, 232
Kosovo, 199–201	extraction of nationals by, 335
Liberia, 203-4	on humanitarian intervention, 490-1, 504
retrospective authorisation or approval,	Iraq, air strikes in, 453
202-7	Libya, intervention in, 190-1
Sierra Leone, 204-5	Rome Statute and, 63
unilateral enforcement of collective will,	"unable or unwilling" doctrine and, 416
197–202	Bellum justum, 24-6
implied powers doctrine and, 162-3	Bentwich, Norman, 94
internal matters, applicability to, 164-5	Berman, Frank, 354
multilateralism versus unilateralism, 175,	Bethlehem, Daniel, 383, 387, 412
176–9	Bethlehem Principles
no-fly zones, 160	imminence and, 383, 384, 397
peacekeeping (See Peacekeeping)	non-state actors, self-defence against, 412
practice in authorisation model, 158–61	"unable or unwilling" doctrine and, 416,
privatisation of collective security, danger of,	418–21, 424–5, 426
162-3	Bianchi, Andrea, 6, 7
problems with authorisation model, 524	Biden, Joe, 45, 281-2, 294, 295, 342
proportionality principle and, 316–17	Bingham, Tom (Lord), 57
recommendation versus authorisation, 166	Bin Issa Al-Khalifa, Hamad, 473
Responsibility to Protect (See Responsibility to	bin Laden, Osama, 114-17, 313, 368, 403, 411,
Protect)	412, 429–32, 434–8
revival of past authorisations	Bishkek Protocol (1994), 303-4
generally, 175, 179–82	Blair, Tony, 180, 377-8
authority to determine material breach, 185–7	Blockades, 148
Iraq (See Iraq)	Blokker, Niels M., 178
legacy of revival argument, 187–9	Bocoum, Marie-Thérèse Keita, 245
material breach, 183–5	Border incidents, 277, 285
weapons of mass destruction (WMD) and, 183	Bosnia and Herzegovina
Autonomous weapons, 526	Dayton Peace Agreement (1995), 236
"Axis of evil," 42–3, 179, 369–70, 371	NATO intervention in, 236
Azerbaijan	non-state actors in, 249–50
Bishkek Protocol (1994), 303-4	Security Council Resolution 807 (1993), 235
Nagorno-Karabakh, dispute with Armenia	Security Council Resolution 836 (1993), 235
regarding, 302-4	Serbian intransigence in, 235–6
-0	Srebrenica massacre (1995), 236
Bahrain	United Nations Protection Force (UNPROFOR),
consent to intervention and, 473	235–6, 247–8
GCC intervention in, 467	Botswana, South African intervention in, 400
Iranian intervention in, 467	Boutros-Ghali, Boutros, 142–3
Iranian intervention in, 467	Boutros-Ghali, Boutros, 142–3



531 Index

non-state actors as perpetrators, 263, 400 Bowett, Derek, 307-8, 315 Brahimi Report (2000), 246-7, 254 proportionality principle and, 260-1, 297 Brandis, George, 383 self-defence and, 26, 296-7 Brazil Cassese, Antonio, 307, 507 Security Council, consideration for permanent Catholic Church, 25 member status, 138 Central African Republic on use of force in self-defence in territory of African-led International Support Mission in other states, 266 the Central African Republic (MISCA), 244 Breaches of peace authorisation of force by Security Council in, generally, 138, 143-4 determinations, 147-8 consent to intervention and, 448 Brennan, John, 433 EU intervention in, 159 Brothers to the Rescue, 118 Operation Bepka, 244 Brownlie, Ian, 30, 98, 280, 362 stabilisation missions in, 248 Bryan Treaties (1913-1914), 65 United Nations Multidimensional Integrated Buchan, Russell, 99 Stabilization Mission in the Central Buchwald, Todd, 184 African Republic (MINUSCA), 243-5, 247 Budapest Convention (2001), 79 Chad Burundi, AU intervention in, 477 civil war in, 467, 470 Bush, George H.W., 197-8 EU intervention in, 159 Bush, George H.W., assassination attempt (1993) French intervention in, 467, 470 as armed attack, 98, 283-4 Libyan intervention in, 470 armed reprisals in response to, 310 Chad, consent to intervention and, 448 Charter Article 2(4). See Prohibition on use of necessity principle and, 283-312 non-state actors, self-defence against, 405 force protection of nationals abroad and, 327, 330 Chatham House Principles of International Law Bush, George W., 42-3, 179-80, 187, 369-70, on the Use of Force by States in Self-371, 376, 407, 433, 524. See also Bush Defence Doctrine imminence and, 278, 381-96 **Bush Doctrine** "unable or unwilling" doctrine and, 416-17 generally, 179-80 Chemical weapons contradictions in, 371 Novichok poisoning, 114-15 international reaction to, 374-8 in Syria, 41-2, 315, 513, 514, 515-17 Iraq War and, 371-3 Chemical Weapons Convention (1997), 517 Obama Doctrine compared, 379-81 Chesterman, Simon, 163 pre-emptive self-defence and, 369-71 Chicago Convention on International Civil in Syria, 373-4 Aviation (1944), 118 China Butler, Richard, 184-5 "all necessary means" and, 42 Cambodia, humanitarian intervention in, 494-5 DRC, opposition to intervention in, 241 Cameron, David, 193, 430-1 India, border incidents with, 277 Canada Iraq, opposition to intervention in, 198-9 foreign vessels, law enforcement actions Kosovo, opposition to intervention in, 199, against, 118 Iraq, air strikes in, 453 Libya, authorisation of force by Security Libya, intervention in, 190-1 Council and, 191 "unable or unwilling" doctrine and, 416 Manchuria, Japanese invasion of, 29, 49 Capstone Doctrine, 223 on NATO intervention in Yugoslavia, 503-4 Caroline incident (1837) Rome Statute and, 63 generally, 400 Serbia, NATO bombing of Chinese embassy in, anticipatory self-defence and, 360, 361, 362 128 necessity principle and, 260-1, 297, 299, 300 Taiwan and, 42, 155



China (cont.)	armed attack requirement, 339
threat of force and, 42	cyber attacks and, 343
on use of force in self-defence in territory of	ICJ and, 336, 337, 338-9
other states, 266	Korean War and, 341-2
Churchill, Winston, 29–30	League of Arab States and, 338
Cicero, 24-5	NATO and, 337-8, 342
Civilians, protection of	nature of, 337-8
authorisation of use of force by Security	9/11 attacks and, 336, 338
Council, 160	partial application of ICJ framework, 340-2
international humanitarian law (IHL), 153, 434-5	regulation of, 338–43
peacekeeping and, 247	request requirement, 339
targeted killings and, 434–5	in state practice, 340–2
Civil wars, intervention in	UN Charter and, 336
generally, 447, 461-2	Colombia
counterintervention, 469–72	consent to intervention and, 448
difficulty in defining civil war, 463	Ecuador, intervention in, 347-8, 412
negative equality principle, 462-5	Revolutionary Armed Forces of Colombia
generally, 462–5	People's Army (FARC), 412
defined, 462–5	Commissions of inquiry (CoI)
identifying authority to consent, 463	Iraq War, 14, 66, 151-3, 186, 188, 373
lack of consensus regarding, 464	prohibition on use of force and, 65–6
non-international armed conflict and, 463-4	Security Council and, 14
in state practice, 464–5	Commonwealth, cyber operations and, 84–5
status quo, as supporting, 464	Complementarity, 62
purpose-based approach, 466–9	Concert of Europe, 27, 135
consent to intervention and, 466–7	Conference on Security and Cooperation in
legitimacy of intervention, 466	Europe, 308
Clinton, Bill, 284	Congo. <i>See also</i> Democratic Republic of the
Clinton, Hillary, 91	Congo (DRC)
"Coalitions of the willing," 163–4, 189, 218	Belgium and, 232
Coercion	Katanga province, 232
consent to intervention, coercion negating,	peacekeeping in, 221
474-5	stabilisation missions in, 248
cyber operations, coercion versus influence, 83	United Nations Operation in the Congo
use of force, coercion as basis of <i>mens rea</i>	(ONUC), 232–3, 248
requirement, 125–6	Uniting for Peace (UfP) process and, 166–7
VCLT and, 475	Consent to intervention
Cold War	generally, 445–6, 447, 484
authorisation of use of force by Security	civil wars and, 466–7
Council during, 153–6	form of consent
nuclear weapons and, 46–54	generally, 447, 472
peacekeeping during, 230–4	ad hoc versus ex ante consent, 476-7
Collective security	coercion negating consent, 474–5
failures of, 75–6	express consent, 473
League of Nations and, 135	implicit consent, 473–4
NATO and, 171	informal requests, 472–3
peacekeeping emerging in failures of, 220	retrospective consent not recognised, 474
privatisation of, danger of, 162–3	secret consent, 475–6
prohibition on use of force and, 27	treaty-based consent, 476–7
UN Charter and, 135	ICJ and, 448, 450–2, 479
Collective self-defence	identifying authority to consent
generally, 261, 336	generally, 447–8
5 Circiany, 201, 330	Scherally, TTI-0



533 Index

civil wars and 463 Convention on the Prevention and Punishment of effective control test, 452-5 the Crime of Genocide (1948), 508-10 elected officials unable to take office, Cook, Robin, 512 449-50, 453 Cooperation Council for the Arab States of the recognition and, 455-9 Gulf. 454 self-determination and, 459-61 Corfu Channel case (ICJ 1949) sliding scale of authority, 449 de minimis threshold for use of force and, VCLT and, 449 ILC on, 472 humanitarian intervention and, 490 invitation versus, 447 mens rea element of use of force and, 127 lack of clarity regarding, 525 prohibition on use of force and, 34-5 limitations on consent Corn, Geoffrey, 393 generally, 447 Corten, Olivier, 109, 118, 125, 126, 161-2, 163, actions external to consent agreement, 482 276, 469 international humanitarian law (IHL) and, Côte d'Ivoire "all necessary means" and, 195-6 international human rights law (IHRL) and, authorisation of force by Security Council in, 470-83 160, 178, 195-6, 459 peremptory norms, 483 consent to intervention and, 448, 453, 456 scope or time frame of consent, actions French intervention in, 160, 195, 196 exceeding, 480 Security Council Resolution 1975 (2011), self-determination, suppression of, 475-84 status of forces agreements and, 480-1 uncertainty regarding leadership in, 456, 160, territorial limits, 483-4 195-6, 453, 456 withdrawal of consent, 479-80 United Nations Operation in Côte d'Ivoire no generally recognised right, 450, 451-2 (UNOCI), 160, 178, 195, 196 non-state actors, use of force against, 446 Cotonou Peace Agreement (1993), 203 Council of Europe, Convention on Cybercrime peacekeeping and generally, 226-7 (Budapest Convention) (2001), 79 as basic principle, 227 Countermeasures evolution of, 249-50 prohibition on use of force and, 51-2 non-state actors and, 249-50 proportional forcible countermeasures, 290 stabilisation missions and, 250 proportionality principle and, 51 withdrawal of consent, 249 sanctions as, 52 self-defence and, 450-1 Craft, Kelly, 267-8, 324 status of forces agreements and, 480-1 Crawford, James, 452 targeted killings and, 429 Crimea, Russian annexation of, 45, 49, 73, 332 "unable or unwilling" doctrine and, Crimean War, 27 Croatia, independence of, 235 uncertainty regarding entity authorised to Cruz Report (2017), 255 consent, 446-7 Cuba Contextual imminence on authorisation of force by Security Council, capabilities of potential attacker and, 385 evolution from temporal imminence, 381, 384 Cuban Missile Crisis (1962) and, 365-6 expected timing of attack and, 384-5 foreign civil aircraft, law enforcement actions gravity of threatened attack and, 385-6 against, 118 intent of potential attacker and, 386-7 Soviet missiles, removal of, 366 as lex lata, 397-8 "unable or unwilling" doctrine and, 416 necessity principle and, 381-97 Cummings, Dominic, 74-5 previous attacks and, 387-9 Customary international law probative value of previous attacks, 392-3 extensive versus restrictive approach, 10 Soleimani drone strike and, 389-95 ILC on, 9, 10



534 Index

Customary international law (cont.) Soviet intervention in, 73, 342, 470-1 interpretation of jus ad bellum and, 6 Warsaw Pact intervention in, 475 lack of appetite for changing, 523-4 Czech Republic, "unable or unwilling" doctrine non-intervention principle in, 90 and, 416 objections of states, 9-10 opinio juris D'Amato, Anthony, 34 humanitarian intervention and, 494, 507, Dannenbaum, Tom, 70-1 ICJ Statute Article 38 and, 31 African Union intervention in, 170, 213 interpretation of jus ad bellum and, 9-10 Janjaweed militia, 212 non-state actors, self-defence against, 408 peacekeeping in, 253-4 pre-emptive self-defence and, 368 Responsibility to Protect and, 212-13 pre-emptive self-defence and, 370 Security Council Resolution 1706 (2006), 213 prohibition on use of force as, 31-2, 75 Security Council Resolution 2559 (2020), self-defence in, 32, 260-1 239-40 state practice (See State practice) Dayton Peace Agreement (1995), 236 UN Charter, relation to, 32 Declaration on Principles of International Law Cyber attacks Concerning Friendly Relations and accumulation of events theory and, 294 Co-operation among States (1970) armed attack, use of force distinguished, 285-9 armed force and, 93, 102 as armed force, 96 armed reprisals and, 308 collective self-defence and, 343 crime of aggression and, 56 cyber operations and, 79-80 humanitarian intervention and, 491 hostile intent, 129 non-state actors, self-defence against, 415 prohibition on use of force and, 31 indirect and long-term impacts of, 288 self-determination and, 460 non-physical effects of, 288-9 Declaration on the Enhancement of the proportionality principle and, 318-19 self-defence and, 265-6, 271-2, 354-5 Effectiveness of the Principle of Cyber operations Refraining from the Threat or Use of Force generally, 79 in International Relations (1987), 126 as armed force, 98-102 Declaration on the Inadmissibility of Intervention coercion versus influence, 83 in the Domestic Affairs of States (1965), cyber attacks and, 79-80 disagreement regarding, 83-4 Declaration on the Non-Use of Force (1987), 93-4 due diligence and, 83-4 Deeks, Ashley, 358, 427, 484 EU and, 84-5 Definition of Aggression (1974) GGE process and, 81-3, 84, 271 armed attack and, 108-9, 262, 267, 278-9, 327 historical background, 81 armed force and, 93, 102, 481 NATO and, 84 crime of aggression and, 39-58, 107 OEWG and, 82-3 hostile intent and, 274-5 "scholarly interventionism" and, 86 humanitarian intervention and, 491 as self-defence, 82, 84 Kampala Amendments, 59-60 sovereignty and, 83 prohibition on use of force and, 31, 39 suitability of existing rules, 80 Security Council and, 147-8 Tallinn Manual, 84, 86, 98, 101, 102, 286, 294 Democratic Republic of the Congo (DRC). See also Congo Turkish invasion of, 49 Armed Activities case (See Armed Activities United Nations Peacekeeping Force in Cyprus case (ICJ 2005)) (UNFICYP), 233 attacks on peacekeepers in, 252-3 Czechoslovakia consent to intervention and, 448 collective self-defence and, 336 EU intervention in, 240 consent to intervention and, 448 French intervention in 241



535 Index

Intervention Brigade, 241-2, 252 Sierra Leone, intervention in, 169, 205, 238-9, Lusaka Ceasefire Agreement (1999), 240 500-1. 520-1 Movement for the Liberation of the Congo Ecuador (MI.C), 451 Colombian intervention in, 347-8, 412 M23 rebel group, 241 "unable or unwilling" doctrine and, 416 non-state actors in, 249-50 Effective control standard of attribution, 404-13 Operation Artemis, 240 Egan, Brian, 383 Security Council Resolution 2277 (2016), 241 Egypt Security Council Resolution 2502 (2019), 241 Iraq, opposition to intervention in, 198-9 stabilisation missions in, 248 Six Day War, 363-4 Ugandan intervention in, 409-10, 451, 479 United Nations Emergency Force (UNEF I), 224, UK intervention in, 241 226, 230-2, 246, 249, 363-4 United Nations Observer Mission in the DRC United Nations Emergency Force (UNEF II), (MONUC), 240-1, 252-3 United Nations Stabilization Mission in the Eichmann, Adolf, 113-20 Democratic Republic of the Congo El Salvador, Nicaragua assisting rebels in, 277, (MONUSCO), 241-2, 247, 250, 251, 252 310-39, 404-5, 409 Endara, Guillermo, 329, 449 humanitarian intervention in Syria and, 514 Entebbe hostage crisis (1976), 334 Iraq, air strikes in, 453 Erdogan, Recep Tayyip, 50 Libya, intervention in, 190-1 Eritrea-Ethiopia Claims Commission, 51, 55, 277 De Wet, Erika, 449, 452, 453, 460 Esper, Mark, 270, 335 Dinniss, Harrison, 286 Estonia Dinstein, Yoram, 30, 44, 151, 201, 278, 284, 315, on armed force, 100 345, 359-60, 381, 465 cyber attacks and, 79, 100-1, 260-343 Distinction principle, 4-5 cyber operations and, 85-6 Doe, Samuel, 203, 499 Ethiopia Eritrea-Ethiopia Claims Commission, 51, 55, Dogger Bank inquiry (1904), 65 Domestic courts, interpretation of jus ad bellum 277 Italian conquest of, 29 Dominican Republic, consent to intervention and, Somalia, intervention in, 347-8 European Convention of Human Rights (ECHR) Drones. See also specific country (1950)Soleimani drone strike (See Soleimani, Qassem, jus ad bellum and, 71 targeted killing of (2020)) right to life and, 437 targeted killings, use in, 429, 433, 438-9 European Court of Justice, 151 European Union Central African Republic, intervention in, 159 East Pakistan, humanitarian intervention in, 494-5 Chad, intervention in, 159 East Timor, authorisation of force by Security commissions of inquiry (CoI) and, 65-6 cyber operations and, 84-5 Council in, 178 Economic Community of West African States DRC, intervention in, 240 (ECOWAS) Guidelines on the Recognition of New States in generally, 203 Eastern Europe and in the Soviet Union, authorisation of use of force by, 169 consent to intervention and, 477-8 Independent International Fact-Finding ECOWAS Monitoring Group (ECOMOG), Mission on the Conflict in Georgia, 65-6, 203-4, 205, 238-9, 477-8 109-10, 129, 378, 462 Gambia, intervention in, 449-50, 459, 478 Lisbon Treaty (1999), 169 Liberia, intervention in, 169, 203-4, 499-500, on pre-emptive self-defence, 377-8 520 - 1Security Council, relation to, 169 peacekeeping by, 221 Extraction of nationals, 335-6



Falklands War (1982)	Gambia
breach of peace and, 147, 302	authorisation of force by Security Council in, 459
recovery of territory and, 35	consent to intervention and, 449-50, 453, 459
self-defence and, 302, 353-4	ECOMOG, participation in, 203
Findlay, Trevor, 228-9	ECOWAS intervention in, 449-50, 459, 478
Fink, Jonathan, 253	Security Council Resolution 2337 (2017),
Finland	449–50
on armed attack by non-state actors, 265-6	Senegalese intervention in, 449-50
on armed force, 98, 99	uncertainty regarding leadership in, 446,
collective self-defence and, 343	449–50, 453
cyber attacks and, 263-88, 318-19	Gbagbo, Laurent, 195-6, 456
cyber operations and, 85-6	Geneva Conventions (1949)
NATO and, 343	Common Article 2, 433
First World War, 27	Common Article 3, 433
Fletcher, George, 489	Geneva Protocol on the Pacific Settlement of
Focarelli, Carlo, 217	International Disputes (1924), 55
Foreign civil aircraft, law enforcement actions	Genocide
against, 118	humanitarian intervention to prevent,
Foreign individuals or groups, law enforcement	508-10
actions against, 116–17	ICJ and, 510-11
Foreign vessels, law enforcement actions against,	Georgia
118	Abkhazia region, 331-2
Fox, Gregory, 446, 462, 464, 470	Chechen rebels in, 412, 417
France	cyber attacks and, 100-1, 287
accumulation of events theory and, 294	Independent International Fact-Finding
on armed attack by non-state actors, 266	Mission on the Conflict in Georgia, 65–6,
Chad, intervention in, 467, 470	109–10, 129, 378, 462
consent to intervention and, 448, 453	Russian intervention in, 65–6, 79–80, 317, 325,
Côte d'Ivoire, intervention in, 160, 195, 196	331-2
cyber attacks and, 289	South Ossetia region, 325, 331–2
DRC, intervention in, 241	Germany
extraction of nationals by, 335	on armed attack by non-state actors, 265
humanitarian intervention in Syria and, 512,	Security Council, consideration for permanent
514	member status, 138
Iraq and	Special Arbitral Tribunal and, 307
air strikes in, 453	"unable or unwilling" doctrine and, 416
intervention in, 197–8	Ghana, participation in ECOMOG, 203
no-fly zones, 498–9	Ghouta chemical weapons attack (2013), 41–2,
on Kosovo intervention, 200	216, 513
Libya, intervention in, 190–1	Glennon, Michael, 72–3, 74, 76
Mali, intervention in, 242–3, 453, 465, 466,	Global war on terror, 433–6
467-8	Goldsmith, Peter (Lord), 377–8
on NATO intervention in Yugoslavia,	Goodman, Ryan, 333–41
503	Gravity element of use of force, 105, 123–4
Rwanda, intervention in, 177–8	Gray, Christine, 77, 169, 194, 209, 213, 214, 249,
Suez crisis and, 230–1	253, 278, 279, 347, 348, 364, 502
Syria and, 458–9, 512, 514, 516–17	Green, James A., 275–6, 297, 318, 320
•	Greenwood, Christopher, 324–5
Franck, Thomas, 72–3, 204, 364, 506	Grenada
Gabon, consent to intervention and, 448	Barbadian intervention in, 327–8
	consent to intervention and, 448
Gaddafi, Muammar, 145, 189–90, 191, 193, 194, 457–8	extraction of nationals from, 336
+1/=0	CALIACHUH DI HAHUHAIN HUMI. 330



Jamaican intervention in, 327-8	Humanitarian intervention
US intervention in, 73, 327-30, 449	generally, 486–7
Grigsby, Alex, 82	as circumstance precluding wrongfulness, 487,
Grotius, Hugo, 25	492-3
Group of Governmental Experts on Advancing	crime of aggression versus, 59-60, 61
Responsible State Behaviour in	failure of Security Council as justification for,
Cyberspace in the Context of International	507-8
Security (GGE), 81-3, 84, 271	genocide, to prevent, 508–10
Group of 77, 505	ICJ and, 490-1, 492, 493, 496-7, 504
Guaidó, Juan, 44–56	interpretation of jus ad bellum and, 8-9
Guinea, participation in ECOMOG, 203	in Iraq, 497-9, 521
Gulf Cooperation Council (GCC), 214, 467, 473	jus cogens and, 493, 494
Gulf War (1991)	in Kosovo, 501–4
"all necessary means" and, 41, 157-8, 201	generally, 487, 521
authorisation of force by Security Council in,	criticism of, 503-4, 505
157–8	ICJ and, 504
collective self-defence and, 341-2	Operation Allied Force, 502–4
Operation Desert Storm, 157, 176, 182, 316–17	as <i>sui generis</i> case, 506
proportionality principle and, 316–17	UN Charter and, 490–1
Security Council involvement in, 53–4	as lex lata, 519
self-defence and, 349–51, 352	in Liberia, 499–500, 520–1
threat of force and, 41	muscular humanitarianism, 505
US and, 41, 53–4, 157	opinio juris and, 494, 507
Guterres, António, 142–3, 173	peremptory norms and, 493
Guyana, proxy law enforcement actions and,	Responsibility to Protect and, 487, 520–1, 525–6
122–3	self-defence versus, 494–5
122-5	in Sierra Leone, 500–1, 520–1
Hadi, Abdo Rabbo Mansour, 454-5, 468,	in state practice generally, 487, 494, 511–12
470–83	in Syria
Hague Convention III Relative to the Opening of	-
Hostilities (1907), 27	generally, 487, 512–13 debate regarding air strikes, 513–14
Hague Convention I on the Pacific Settlement of	Responsibility to Protect and, 514
~	"thin red line" and, 506–7
International Disputes (1899), 27, 65 Haiti	UN Charter and
authorisation of force by Security Council in, 147, 159-60, 164, 178	generally, 487 authorisation of use of force by Security
extraction of nationals from, 335 Governors Island Agreement, 159–60	Council and, 488–9 General Assembly and, 488
<u>e</u>	•
Hamas, 292, 295 Hammarskjöld, Dag, 226, 231	implied exception to prohibition on use of
3	force, 489–91
Harbouring standard of attribution, 407–8	Kosovo and, 490–1
Helsinki Final Act, 31	prohibition on use of force and, 487–8
Henkin, Louis, 74, 76	restrictive interpretation of, 491–2
Heyns, Christof, 416, 438	self-defence and, 489
Hezbollah, 285, 319, 359, 412	Uniting for Peace (UfP) process and, 508
Higgins, Rosalyn (ICJ Judge), 263, 279-80, 337,	violation of international law, viewed as, 504-5
496	Hungary
High-Level Panel on Threats, Challenges and	on authorisation of force by Security Council,
Change, 187–8, 208, 209–10, 375	177
Hilpold, Peter, 211–12	consent to intervention and, 448
Holy Roman Empire, 25	Soviet intervention in, 73
Hostile intent, 129, 274-5	Hussein, Saddam, 41, 180, 197, 497



538 Index

ICJ. See International Court of Justice (ICJ) International Court of Justice (ICJ) accumulation of events theory and, 291, 402-3 IHL. See International humanitarian law (IHL) IHRL. See International human rights law (IHRL) advisory opinions, 11 anticipatory self-defence and, 362-3 ILC. See International Law Commission (ILC) Imminence Armed Activities case (See Armed Activities anticipatory self-defence and case (ICJ 2005)) generally, 360-1 armed attack and (See Armed attack) expansionist approach, 361 armed force and, 95-6, 99, 102-4 ICJ and, 362-3 armed reprisals and, 308 international jurisprudence, 362-3 authorisation of use of force by Security restrictionist approach, 361-2 Council and, 162 collective self-defence and, 336, 337, 338-9 Six Day War and, 363-4 Bethlehem Principles and, 383, 384, 397 consent to intervention and, 448, 450-2, 479 Chatham House Principles and, 278, 381-96 Corfu Channel case (See Corfu Channel case contextual imminence (See Contextual (ICJ 1949)) imminence) crime of aggression and, 108 defining, 381 Fisheries Jurisdiction case (1998), 118 expansion of, 370-1 foreign vessels, law enforcement actions Leiden Policy Recommendations and, 382 against and, 118 non-state actors, self-defence against, General Assembly and, 140-1, 142 403-4 genocide and, 510-11 permanent imminence, 387-8 humanitarian intervention and, 490-1, 492, pre-emptive self-defence (See Pre-emptive 493, 496-7, 504 self-defence) ICJ Statute Article 38 interpretation of jus ad bellum and, 6 targeted killings and, 383, 388 terrorism and, 388 opinio juris and, 31 Implementation of the Declaration on the state practice and, 31 Granting of Independence to Colonial Legality of Use of Force case (1999), 490-1, 504 Countries and Peoples (1972), 460 mens rea element of use of force and, 103-26 Implied powers doctrine, 162-3 necessity principle and, 297, 301-10 Independent International Commission on Nicaraqua case (See Nicaraqua case (ICJ 1986)) Kosovo, 506 non-intervention principle and, 91-2 India non-state actors, self-defence against, 400, China, border incidents with, 277 404-5, 409-10, 439 Goa, invasion of, 35 Nuclear Weapons advisory opinion (See humanitarian intervention by, 494-5 Nuclear Weapons advisory opinion (ICJ Pakistan and, 353 Oil Platforms case (See Oil Platforms case (ICJ Security Council, consideration for permanent member status, 138 2003)) Indonesia, United Nations Security Force (UNSF), peacekeeping and, 225 pre-emptive self-defence and, 378-9 224 In Larger Freedom, 208, 210, 375-6 prohibition on use of force and, 39, 75, 77 Institut de Droit International, 462-3 proportional forcible countermeasures, 290 Inter-American Treaty of Reciprocal Assistance proportionality principle and, 297, 320 (1947), 169 Reparations for Injuries advisory opinion Interception of armed attack, 359-60 (1949), 162 International Atomic Energy Agency (IAEA), 180, reporting requirement for self-defence and, 186, 374 344-5, 346, 347 International Commission on Intervention and Security Council and, 139-40, 151 State Sovereignty (ICISS), 207, 209-10 self-defence and, 260 International Committee of the Red Cross (ICRC), threat of force and, 40-1, 44, 46-7, 54-5 435-6 Wall advisory opinion (2004), 263, 400



539 Index

International Covenant on Civil and Political International human rights law (IHRL) Rights (ICCPR) (1966) armed conflict, applicability to, 436 extraterritoriality and, 437 consent to intervention and, 470-83 right to life and, 68, 436-7 international humanitarian law, relation to. self-determination and, 460-1 66-7 International Covenant on Economic, Social and prohibition on use of force, relation to, 67 Cultural Rights (1966), 460-1 generally, 5, 24 International Criminal Court (ICC) aggression, determinations of, 70 complementarity and, 62 implications of, 70-2 crime of aggression and jurisdiction of human rights bodies and, 71 defined, 57-8 positive obligations of states and, 71-2 humanitarian intervention and, 59-60 right to life and, 68-9, 71 inclusion of, 57 rightslessness, 70 jurisdiction, impact of, 61-4 right to life use of force distinguished, 107, 108 ECHR and, 437 generally, 5 HRC and, 68-9, 71, 418-38 jurisdiction ICCPR and, 68, 436-7 crime of aggression, impact on, 61-4 non-arbitrariness standard, 437 ratione personae, 61 targeted killings and, 436-7 ratione temporis, 62 Soleimani drone strike and, 71 Kampala Conference (2010), 57, 59-60 targeted killings and Libya and, 190, 214 generally, 71, 428, 436 prosecutorial policy, 61-2 extraterritoriality and, 437-9 Rome Statute, 31, 48, 57-60, 107, 108 right to life and, 436-7 International Law Association, 445 states not accepting amendments to Rome International Law Commission (ILC) Statute, 63 threat of force and, 48 on armed reprisals, 308-9 International criminal law, relation to jus ad on consent to intervention, 472 bellum, 5 on countermeasures, 52 International Criminal Tribunal for the former on crime of aggression, 56-7 Yugoslavia (ICTY) on customary international law, 9, 10 non-state actors, self-defence against, 405-6 Draft Articles on Responsibility of States for Security Council compared, 149 Internationally Wrongful Acts Tadic case (1995), 405-6 (DARSIWA) (2001), 48-9, 52, 53, 299, use of force and, 14 308-9, 446, 492 International humanitarian law (IHL) Draft Articles on the Responsibility of civilians, protection of, 153 International Organisations, 38, 151, 152-3 consent to intervention and, 470-83 Draft Code of Offences against the Peace and international human rights law, relation to, 66-7 Security of Mankind, 56-7 necessity principle in jus ad bellum compared, on prohibition on use of force, 38-9 on self-defence, 53 4-5,299proportionality principle in jus ad bellum International Military Tribunal (Nuremberg compared, 4-5 Tribunal), 55-6, 57, 362 Security Council subject to, 151-3 Interpretation of jus ad bellum targeted killings and customary international law and, 6 generally, 428, 432 disagreement regarding, 7 civilians, protection of, 434-5 domestic courts and, 14 continuous combat function, 434-5 humanitarian intervention and, 8-9 ICI and duty to capture, 435-6 intensity requirement, 433-4 advisory opinions, 11 in non-international armed conflict, 433-4 decisions, 14-15 organization requirement, 433-4 ICJ Statute Article 38, 6



Interpretation of jus ad bellum (cont.)	collective self-defence and, 336, 338, 340-1
justifications for use of force, 10-11	Compensation Commission, 50-1
legal scholars and, 15-18	Compensation Fund, 50–1
NGOs and, 16	consent to intervention and, 473, 474, 479,
opinio juris and, 9–10	481, 482, 483
refraining from use of force, 12	drones, use in, 438
Security Council commissions of inquiry and,	France and
14	air strikes in, 453
self-defence and, 8	intervention in, 197-8
silence versus acquiescence, 13	no-fly zones, 498-9
state practice and, 9–10	humanitarian intervention in, 497-9, 521
subsidiary means, 14-15	implied authorisation of use of force by
treaties and, 6	Security Council, 197-9
UN Charter, 7	Islamic State in, 406, 418, 421-2, 446, 483
unilateral statements of states, 11-12	Israeli missile strike on nuclear plant in (See
VCLT and, 7-8	Osiraq nuclear power plant missile strike
Iran	(1981))
arms embargo, 160-1	Kuwait, invasion of, 35, 41, 50-1, 129, 157,
in "axis of evil," 42-3, 179, 369-70, 377	341-2, 474, 476 (See also Gulf War (1991))
Bahrain, intervention in, 467	no-fly zones in, 197-9, 498-9
Islamic Revolutionary Guard Corps (IRGC),	Operation Desert Fox, 184-5
267-8	Operation Desert Strike, 198
Joint Comprehensive Plan of Action, 43	Operation Poised Hammer, 198
Oil Platforms case (See Oil Platforms case	Operation Provide Comfort, 198
(ICJ 2003))	Operation Southern Watch, 198
on pre-emptive self-defence, 372, 377	opposition to intervention in, 198-9
Quds force, 267-8, 293, 389, 391	revival of past authorisations of use of force by
sanctions, 160-1	Security Council
Security Council Resolution 1929 (2010),	generally, 179-82, 371-2
160-1	authority to determine material breach,
Soleimani drone strike (See Soleimani, Qassem,	185–7
targeted killing of (2020))	legacy of revival argument, 187-9
Stuxnet cyber attack, 79-80, 96, 97-8, 100-1,	material breach, 183-5
160-1, 287	Resolution 678 (1990), 179, 180-5
Syria and, 512	Russia and
"unable or unwilling" doctrine and, 416	no-fly zones, 498-9
US and	opposition to intervention in, 198
armed attack on embassy of, 271	safe havens in, 197-8
attempted rescue of hostages by, 333-4	sanctions, 156-7, 351-2, 372
downing of civil aircraft, 122, 127	Security Council Resolution 660 (1990), 179,
"Eagle Claw" mission, 271	182
oil platforms, armed attack on, 274, 301-10,	Security Council Resolution 661 (1990), 351
317-18	Security Council Resolution 678 (1990)
proportionality principle and, 317-18	generally, 175
threat of force by, 43	breadth and scope of authorisation, 189
threat to military vessels of, 268, 293	development of authorisation method and,
use of armed force by, 97-112	157
Yemen, intervention in, 455, 470, 471	humanitarian intervention and, 497-8
Iran–Iraq War, 274	mandate of, 182-3
Iraq. <i>See also</i> Iraq War (2003)	multilateralism versus unilateralism, 176-9
"all necessary means" and, 179, 180, 497-8	proportionality principle and, 316-17
in "axis of evil," 42-3, 179, 369-70, 371	revival of, 179, 180-5



541 Index

Security Council Resolution 687 (1991) in Syria, 406, 416, 417-18, 421-4, 425, 465 cease fire under, 187 as terrorist group, 466 Compensation Fund, 50-1 UK action against, 430-1 material breach of, 183-5 US action against, 416, 417-18 revival of past authorisations and, 179, in Yemen, 469 Israel Security Council Resolution 688 (1991), 145, abductions by, 113-20 197-8, 497-8 accumulation of events theory and, 292-3 Security Council Resolution 692 (1991), 50-1 on armed attack by non-state actors, 265 Security Council Resolution 707 (1993), 184 on armed force, 100, 101 Security Council Resolution 1441 (2002) cyber attacks and, 318-19 material breach and, 180, 185-7 cyber operations and, 85-6 poor drafting of, 188 drones, use of, 438 revival of authorisations and, 180-2 Gaza, raids in, 292, 319, 321-2, 402-3, 438 Turkish intervention in, 347-8, 400, 412, 479-80 Hezbollah and, 359 UK and interception of armed attack and, 359 intervention in, 197-8, 453 Iraq, missile strike on nuclear plant in (See no-fly zones, 498-9 Osiraq nuclear power plant missile strike United Nations Monitoring, Verification and (1981))"Iron Dome," 359 Inspection Commission (UNMOVIC), 180, Lebanon, intervention in, 285, 309, 400, 412 United Nations Special Commission Operation Cast Lead, 292, 321-2 (UNSCOM), 184-5 Operation Change Direction, 319 US and Operation Guardian of the Walls, 292, 322 air strikes by, 309, 330, 453 Operation Orchard, 373 embassy, armed attack on, 269, 281 Operation Pillar of Defense, 292 Operation Protective Edge, 292, 321, 322 intervention in, 197-8 protection of nationals abroad and, 333-4 Islamic State, action against, 483-4 no-fly zones, 498-9 Rome Statute and, 63 targeted killings by, 334-5 self-defence and, 285 weapons of mass destruction (WMD) and, 371 Six Day War, 363-4 Iraq War (2003) Syria, air strikes in, 292-3, 373-4, 387, 524-5 generally, 1 targeted killings by, 114-17, 428 Bush Doctrine and, 371-3 Tunisia, intervention in, 147, 400, 410, 411-12 commissions of inquiry (CoI), 14, 66, 151-3, Uganda, rescue of hostages in, 334 186, 188, 373 "unable or unwilling" doctrine and, 416 conventional weapons in, 2 United Nations Emergency Force (UNEF I), 224, debate regarding, 49 226, 230-2, 246 Operation Iraqi Freedom, 180, 185, 187, 194 United Nations Emergency Force (UNEF II), 233-4 pre-emptive self-defence and, 371-3 Secretariat and, 143 Abyssinia, conquest of, 29 as violation of prohibition on use of force, 73 Libya, intervention in, 190-1 Islamic State on protection of nationals abroad, 334 collective self-defence and, 336, 338, 340-1 imminence and, 388 Jamaica, intervention in Grenada, 327-8 in Iraq, 406, 418, 421-2, 446, 483 Jammeh, Yahya, 446, 449-50 non-state actors, self-defence against, 406 Japan protection of nationals abroad and, 334-5 Manchuria, invasion of, 29, 49 Saudi Arabia and, 418 Security Council, consideration for permanent Security Council Resolution 2249 (2015), 388, member status, 138 421 Jennings, Robert Yewdall (ICJ Judge), 279, 337, self-defence and, 266 338-9



Jordan	consent to intervention and, 448
air strikes in Iraq, 453	on humanitarian intervention, 495
Islamic State and, 418	self-defence and, 415-16, 422-3
opposition to intervention in Iraq, 198-9	Somalia, intervention in, 415-16, 422-3
Joyner, Christopher, 97-8	"unable or unwilling" doctrine and, 422-3
Jus ad bellum	US embassy, armed attack on, 270-1, 273,
conceptual approach, 6-17	283-312, 411, 436
ECHR and, 71	Khan, Reyaad, 96, 114-17, 383, 388, 392-8,
epiphenomenal nature of, 523	429-38
failures of, 3	Kim Jong-nam, 115
goals of, 2-3	Koh, Harold, 431, 432
international criminal law, relation to, 5	Kohen, Marcelo, 163
interpretation of (See Interpretation of jus ad	Korean War (1950-1953)
bellum)	generally, 147
jus in bello, relation to, 4-5, 388-9	collective self-defence and, 341-2
as lex specialis, 5, 66-7, 69, 71	General Assembly and, 155-6
necessity principle, international humanitarian	Security Council and, 154-6
law (IHL) compared, 299	Uniting for Peace (UfP) process and, 155-6
protection of nationals abroad and, 323	Kosovo
weapons of mass destruction (WMD) and, 2	"all necessary means" and, 501-2
Jus cogens	humanitarian intervention in, 501-4
de minimis threshold for use of force and, 111	generally, 487, 521
humanitarian intervention and, 493, 494	criticism of, 503-4, 505
prohibition on use of force as, 24, 38-40, 111	ICJ and, 504
Security Council subject to, 151	Operation Allied Force, 502-4
threat of force, prohibition not deemed, 48	as sui generis case, 506
Jus in bello	UN Charter and, 490–1
jus ad bellum, relation to, 4-5, 388-9	implied authorisation of use of force by
proportionality principle in, 316	Security Council, 199–201
Justifications for use of force	independence of, 450-1
interpretation of jus ad bellum, 10-11	Independent International Commission on
prohibition on use of force and, 76–8	Kosovo, 506
self-defence, 11	Kosovo Liberation Army (KLA), 199, 501
Just war doctrine, 24–6	NATO intervention in, 36, 48, 73, 127,
	199–201, 207, 223
Kabbah, Ahmad Tejan, 204, 500-1	Operation Allied Force, 200
Kabila, Laurent, 240, 409, 479	peacekeeping in, 223
Kata'ib Hezbollah, 74–5, 267–8, 281, 293, 327,	Security Council Resolution 1160 (1998),
334-5	501-2
Kellogg-Briand Pact (1928)	Security Council Resolution 1199 (1998),
generally, 1	199–200, 501–2
adoption of, 28–9	Security Council Resolution 1203 (1998),
contracting parties, limitation to, 29	199–200, 501–2
crime of aggression not recognised, 56	Uniting for Peace (UfP) process and, 166–7
forcible measures short of war, omission of, 29	Kretzmer, David, 309–10
possibility of war as policy, 29	Kritsiotis, Dino, 316, 340, 345, 347, 348, 350,
self-defence, omission of, 29, 259	352 Vung Joseph I 279 227
weaknesses of, 29	Kunz, Joseph L., 278, 337
Kelsen, Hans, 140, 144, 349–50 Kennedy, John F., 365–6	Kuwait consent to intervention and, 474
Kenya	Iraqi invasion of, 35, 41, 50–1, 129, 157, 341–2,
al-Shabaab in, 406, 415–16, 422–3	474, 476 (See also Gulf War (1991))
ar Sirabaab III, 700, 719-10, 422-9	717, 710 (See also dull vval (1331))



Ladsous, Hervé, 243	implied authorisation of use of force by
Lavrov, Sergei, 192	Security Council, 203-4
Law enforcement actions, use of force	Libya
distinguished, 112-18. See also Use of	abductions in, 114-20
force	"all necessary means" and, 215
League of Arab States	arms embargo, 190, 192, 458
collective self-defence and, 337-8	authorisation of force by Security Council in
Libya and, 214	generally, 160, 189-91
Yemen and, 454	disputes regarding, 191
League of Nations	opposition forces, assisting, 191-3
collective security and, 135	regime change and, 194–5
Covenant, 1, 28	Chad, intervention in, 470
creation of, 28	drones, use in, 438
League Council, 28	extraction of nationals from, 335-6
self-defence, omission of, 259	French intervention in, 190-1
Lebanon	on humanitarian intervention, 495
collective self-defence and, 336	Human Rights Council and, 190
extraction of nationals from, 335	ICC and, 190, 214
Israeli intervention in, 285, 309, 400, 412	National Transitional Council (NTC), 457-8
Security Council Resolution 467 (1980), 228	NATO intervention in, 172, 190-2, 193, 194
United Nations Interim Force in Lebanon	213-14, 520
(UNIFIL), 228, 233-4, 247	no-fly zones in, 214
Lederman, Marty, 393	Responsibility to Protect and, 213-15, 520
Legal scholars, interpretation of jus ad bellum	Security Council and, 145
and, 15–18	Security Council Resolution 1970 (2011)
Leiden Policy Recommendations on Counter-	generally, 190
Terrorism and International Law	arms embargo, 458
imminence and, 382	opposition forces, assisting, 192
terrorism and, 436	Responsibility to Protect and, 213
"unable or unwilling" doctrine and, 416, 417,	threats to peace and, 145
418–20, 425–6	Security Council Resolution 1973 (2011)
Lesaffer, Randall, 27-8, 30	generally, 190
Lesotho, SADC intervention in, 478	opposition forces, assisting, 192, 193
Lex ferenda	regime change and, 194–5
generally, 17	Responsibility to Protect and, 214-15, 520
pre-emptive self-defence as, 371	threats to peace and, 145
Lex lata	Security Council Resolution 2016 (2011), 19
generally, 17	Transitional National Council, 191
accumulation of events theory not deemed,	US air strikes in, 309, 310, 330
295	Lieblich, Eliav, 69-70
contextual imminence as, 397-8	Lillilch, Richard B., 489
humanitarian intervention as, 519	Lisbon Treaty (1999), 169
pre-emptive self-defence as, 371, 374	Lobel, Jules, 183
Lex specialis, jus ad bellum as, 5, 66-7, 69, 71	Lotrionte, Catherine, 97-8
Liberia	Lubell, Noam, 359, 376, 386
authorisation of force by Security Council in,	Luck, Edward, 211
178	Lusaka Ceasefire Agreement (1999), 240
Cotonou Peace Agreement (1993), 203	-
ECOWAS intervention in, 169, 203-4,	Maduro, Nicolás, 44-56
499–500, 520–1	Mali
extraction of nationals from, 335	African-led International Support Mission to
humanitarian intervention in, 499-500, 520-1	Mali (AFISMA), 242-3



Mali (cont.)	assassination attempts and, 327, 330
Agreement for Peace and Reconciliation in	extraction of nationals, 335-6
Mali, 243	foreign governments
"all necessary means" and, 242-3	attacks or threats to nationals by, 327-33
civil war in, 465, 466, 467-8	"unable or unwilling" doctrine and, 333-5
consent to intervention and, 448, 453	future harm, prevention of, 330-3
French intervention in, 242-3, 453, 465, 466,	Islamic State and, 334-5
467-8	limitations on, 327
Le Mouvement national de libération de	proportionality principle and, 329
l'Azawad (MLNA), 467–8	as self-defence, 325
Security Council Resolution 2085 (2012), 242	Soleimani drone strike and, 323-6, 330-1,
Security Council Resolution 2100 (2013), 242	334-5
Security Council Resolution 2584 (2021), 243	targeted killings as, 323-6, 330-1, 334-5
stabilisation missions in, 248	UN Charter Article 51, 324-5
United Nations Peacekeeping Mission in Mali (MINUSMA), 242-3, 247, 250	NATO. See North Atlantic Treaty Organization (NATO)
Martin, Andrew, 94	Natural disasters, 212
Material breach	Naulilaa case (1928), 27
authority to determine, 185-7	Navalny, Alexei, 45
revival of past authorisations and, 183-5	Necessity principle
McCain, John, 513	accumulation of events theory and, 263-312
Menezes, Jean Charles da Silva e de, 113-29	armed reprisals and, 307
Mens rea	assassination attempts and, 283-312
armed attack	border disputes and, 305
ICJ and, 274	contextual imminence and, 381-97
self-defence, required for, 274-6	delay in response, effect of, 301-2
crime of aggression, 60-1	dual role of, 298
use of force	as enabling actions in self-defence, 261-98
generally, 125–6	further attacks, prevention of, 286-312
coercion as basis of requirement, 125-6	ICJ and, 297, 301–10
hostile intent, 128-9	identity of perpetrator, relevance of, 312-13
ICJ and, 103–26	immediacy requirement, 301-2, 304
intention versus general motives for action,	imminent threat of further attacks, 286-312
126–7	international humanitarian law (IHL)
mistake and, 127-8	compared, 4-5, 299
Mexico on use of force in self-defence in territory	lack of alternatives required, 299-300
of other states, 266	lack of direct references to, 316
Milanovic, Marko, 509	merger with proportionality principle, 320
Milley, Mark A., 390	nature of weapons used, relevance of, 313
Milošević, Slobodan, 200, 501, 502	9/11 attacks and, 283-312
Multilateralism, 175, 176-9	non-state actors, self-defence against, 312-13,
Murphy, Sean D., 378, 473	402
	reasonableness requirement, 300-2
Nagorno-Karabakh dispute, 302-4	recovery of territory and, 302-5
Namibia	Security Council and, 151
Kosovo, opposition to intervention in, 200–1	self-defence generally, 260–1
Lusaka Ceasefire Agreement (1999), 240	in state practice, 297–8
Napoleon, 27	targeted killings and, 430–1
Nasser, Gamel Abdel, 363-4	Negative equality principle, 462–5. See also Civil
Nationals abroad, protection of	wars, intervention in
generally, 261, 322–4	Negroponte, John, 369
armed attack, attacks on nationals as, 324-7	Netanyahu, Benjamin, 292-3



Netherlands	pre-emptive self-defence and, 369
armed attack, use of force distinguished, 285-6	preventative self-defence and, 357
on armed attack by non-state actors, 265	Security Council Resolution 1368 (2001),
on armed force, 93-101, 102	264-5, 407
commissions of inquiry (CoI) and, 66	Security Council Resolution 1373 (2001),
cyber attacks and, 288, 289	264–5, 351
Iraq, air strikes in, 453	self-defence and, 96, 264-5, 266, 283-312,
on NATO intervention in Yugoslavia, 503	398, 403
Rome Statute and, 63	Nkurunziza, Pierre, 477
"unable or unwilling" doctrine and, 416	No-fly zones, 160, 197–9, 214, 498–9
New Zealand	Non-Aligned Movement on pre-emptive self-
on armed force, 99-100, 101	defence, 376-7
cyber attacks and, 286	Non-governmental organisations (NGOs),
cyber operations and, 85–6	Interpretation of <i>jus ad bellum</i> and, 16
Nicaragua	Non-international armed conflict
contras in, 55, 102-26, 451, 496-7	negative equality principle and, 463–4
El Salvador, assisting rebels in, 277, 310–39,	targeted killings in, 433–4
404–5, 409	Non-intervention principle
US intervention in, 55, 91–2, 102–3, 344–5,	in customary international law, 90
451, 496–7	ICJ and, 91–2
Nicaragua case (ICJ 1986)	interference distinguished, 90–1
accumulation of events theory and, 291	UN Charter and, 90
anticipatory self-defence and, 362-3	Non-recognition of governments, 49, 456
armed force and, 99, 102–4	Non-state actors, self-defence against
armed reprisals and, 308	generally, 2, 18, 261, 398, 400–1
collective self-defence and, 336, 337, 338–9	accumulation of events theory and, 402–3
consent to intervention and, 448, 451	armed reprisals distinguished, 403
crime of aggression and, 108	assassination attempts and, 405
humanitarian intervention and, 492, 493, 496–7	Bethlehem Principles and, 412
mens rea element of use of force and, 103–26	calls for reform, 439–40
necessity principle and, 297	consent to intervention and, 446
non-intervention principle and, 91–2	effective control standard of attribution,
non-state actors, self-defence against, 400,	404–13
404–5, 409, 439	harbouring standard of attribution, 407–8
pre-emptive self-defence and, 378–9	host states and non-state actors
prohibition on use of force and, 39, 75, 77	generally, 401 effective control standard of attribution,
proportional forcible countermeasures, 290	
proportionality principle and, 297	404-7
reporting requirement for self-defence and,	harbouring standard of attribution, 407–8
344–5, 346, 347	overall control test, 405–6
self-defence and, 260	ICJ and, 400, 404–5, 409–10, 439
threat of force and, 55	imminence and, 403–4
Nigeria, participation in ECOMOG, 203	lack of clarity regarding, 525
9/11 attacks	necessity principle and, 312–13, 402
generally, 368	9/11 attacks and, 2, 400, 401
as armed attack, 401–2	non-state actors only
collective self-defence and, 336, 338	generally, 401
emotional response to, 408	effective control standard, 408–13
NATO and, 264	lower standard of attribution, 413–14
necessity principle and, 283–312	opinio juris and, 408
non-state actors, self-defence against, 2, 400,	overall control test, 405–6
401	proportionality principle and, 402



546 Index

Non-state actors, self-defence against (cont.) Nuclear weapons state sovereignty barrier, 401 Cold War and, 46-54 targeted killings (See Targeted killings) North Korea and, 147, 188 "unable or unwilling" doctrine (See "Unable or Osiraq nuclear power plant missile strike (1981) unwilling" doctrine) (See Osiraq nuclear power plant missile Noriega, Manuel, 328-9, 449 strike (1981)) North Atlantic Treaty Organization (NATO) pre-emptive self-defence and, 365 Afghanistan, intervention in, 172 proportionality principle and, 320 authorisation of use of force by, 171-2 threat of force and, 47 Bosnia and Herzegovina, intervention in, 236 Treaty on the Non-Proliferation of Nuclear collective security and, 171 Weapons (1968), 46 collective self-defence and, 337-8, 342 Treaty on the Prohibition of Nuclear Weapons Cooperative Cyber Defence Centre of (2017), 46 Nuclear Weapons advisory opinion (ICJ 1996) Excellence, 84 cyber operations and, 84 armed force and, 95-6 drones, use of, 438 armed reprisals and, 308 emergence of, 153 proportionality principle and, 320 Finland and, 343 threat of force and, 40-1, 44, 47 internal crisis management, expansion of Nuremberg Military Tribunal. See International mandate to include, 171-2 Military Tribunal (Nuremberg Tribunal) International Group of Experts, 84, 86 Kosovo, intervention in, 36, 48, 73, 127, Obama, Barack, 43, 299-300, 379-81, 417, 421, 199-201, 207, 223 424, 433-6, 513, 514 Libya, intervention in, 172, 190-2, 193, 194, Obama Doctrine, 379-81 O'Brien, Robert C., 390 213-14, 520 O'Connell, Mary Ellen, 109 9/11 attacks and, 264 Operation Allied Force, 502-4 Ohlin, Jens David, 489 Oil Platforms case (ICJ 2003) Security Council, relation to, 171-2 self-defence and, 171, 264, 350 armed attack and, 106, 268, 272-3, 274, 280-1, Serbia, bombing of Chinese embassy in, 128 290 291 Serbia and Montenegro, humanitarian necessity principle and, 301-10 intervention in, 490-1 proportionality principle and, 317-18 Strategic Concept (2010), 171-2 Open-Ended Working Group on Developments in Sweden and, 343 the field of Information and Syria and, 216 Telecommunications in the Context of Tallinn Manual, 84, 86, 98, 101, 102, 286, 294 International Security (OEWG), 82-3 Ukraine and, 43-6, 343 Opinio juris Washington Treaty (1949), 337 humanitarian intervention and, 494, 507, 521 Yugoslavia, attacks in, 200, 502-4 ICI Statute Article 38 and, 31 interpretation of jus ad bellum and, 9-10 North Korea in "axis of evil," 42-3, 179, 369-70, 377 non-state actors, self-defence against, 408 nuclear program in, 147, 188 pre-emptive self-defence and, 368 on pre-emptive self-defence, 377 Opinio necessitatis, 507, 521 Rome Statute and, 63 Orakhelashvili, Alexander, 162, 171 sanctions, 147 Organization for the Prohibition of Chemical Security Council and, 147, 188 Weapons, 114-15 Security Council Resolution 1718 (2006), 188 Organization of African Unity (OAU) South Korea, invasion of, 147, 154-6, 341-2 on consent to intervention, 476-7 (See also Korean War (1950-1953)) on humanitarian intervention, 495 Organization of American States (OAS) threat of force and, 45, 47 Norway, intervention in Libya, 190-1 collective self-defence and, 337-8 Novichok poisoning, 114-15 Cuban Missile Crisis (1962) and, 365-6



cyber operations and, 84–5	evolution of
9/11 attacks and, 264	generally, 245-6
Security Council, relation to, 169	consent of parties, 249-50
self-defence and, 264	impartiality, 250-1
Organization of Eastern Caribbean States, 328	self-defence, use of force limited to, 246-9
Organization of the Islamic Conference, 214	General Assembly and, 224
Osiraq nuclear power plant missile strike (1981)	ICJ and, 225
necessity principle and, 312, 313-34	impartiality
pre-emptive self-defence and, 367-8	generally, 226–7
Security Council and, 53	as basic principle, 227–8
Security Council Resolution 487 (1981), 367	deviations from, 253
as use of force, 34	evolution of, 250-1
Ouattara, Alassane, 195, 196, 456	stabilisation missions and, 251
Overall control test, 405–6	increased risks to peacekeepers, 253
overall control test, 103 o	legal basis for
Pakistan	UN Charter Article 1, 224
bin Laden, killing of, 412	UN Charter Chapter VI, 225
consent to intervention and, 475–6	UN Charter Chapter VII, 225–6
drones, use in, 429, 438	muscular peacekeeping, 136–7, 160, 221, 248,
India and, 353	249
on pre-emptive self-defence, 376	parties to conflict, peacekeepers becoming,
self-defence and, 353	252–3
US intervention in, 412, 475-6	peace enforcement distinguished, 221, 254–5
Palestinian Liberation Organization (PLO),	peace observation distinguished, 223
114–17, 309, 410, 459	Secretariat and, 222–3
	Security Council, origins in failures of, 220
Panama	self-defence, use of force limited to
consent to intervention and, 448, 449–50	
extraction of nationals from, 336	generally, 226–7
Panama Canal Treaty (1977), 328–9, 449	as basic principle, 228–30
US intervention in, 73, 328–30, 449–50, 459	civilians, protection of, 247
Peacekeeping. See also specific country or	deviations from, 253
mission	evolution of, 246–9
generally, 18, 222	expansion of use of force, 246–7
by African Union (AU), 221	individuals, right to self-defence, 228–9
"all necessary means" and, 234	lack of clarity, 247–8, 254
Brahimi Report (2000), 246–7, 254	narrow interpretation of, 229-30
Capstone Doctrine, 223	resistance to attempts to prevent
civilians, protection of, 247	implementation of peacekeeping, 246
Cold War, during, 230–4	stabilisation missions, 248
collective security, origins in failures of,	states, right to self-defence, 228-9
220	UN, right to self-defence, 229
consent of parties	UN Charter Chapter VII mandates, 248-9,
generally, 226–7	254
as basic principle, 227	stabilisation missions
evolution of, 249–50	consent of parties and, 250
non-state actors and, 249-50	impartiality and, 251
stabilisation missions and, 250	self-defence, use of force limited to, 248
withdrawal of consent, 249	Uniting our Strengths for Peace Report (2015),
Cruz Report (2017), 255	246-7, 254-5
defining, 222-4	use of force in, 221–4
early challenges, 220-1	war fighting versus, 252, 253
effective equipping of peacekeepers, 254	Peace of Westphalia (1648), 25



Pence, Mike, 44-56	generally, 24, 48-50
Peremptory norms	commissions of inquiry (CoI), 65-6
consent to intervention and, 483	countermeasures, 51-2
humanitarian intervention and, 493	crime of aggression (See Aggression, crime
prohibition on use of force as, 38-40	of)
Security Council subject to, 151	regional organisations, involvement of,
VCLT, under, 38	53-4
Permanent imminence, 387-8	reparations, 50-1
Poland, Rome Statute and, 63	Security Council, involvement of, 53-4
Pompeo, Mike, 326, 331, 392, 393-4	self-defence, 52–3
Portugal, Special Arbitral Tribunal and, 307	collective security and, 27
Power, Samantha, 417–18	commissions of inquiry (CoI) and, 65-6
Precautionary principle, 4-5	continued relevance of
Pre-emptive self-defence	generally, 24
generally, 364–5	collective security failures and, 75–6
Bush Doctrine and, 369–71	cyber operations and (See Cyber operations)
Cuban Missile Crisis (1962) and, 365–6	international law, role of, 74–5
customary international law and, 370	justifications for use of force and, 76–8
ICJ and, 378–9	other causes for decline in war, 74–5
imminence, expansion of, 370–1	purported demise of, 72–3
international reaction to, 374–8	countermeasures and, 51–2
Iraq War and, 371–3	crime of aggression (See Aggression, crime of)
as lex ferenda, 371	as customary international law, 31–2, 75
as lex lata, 371, 374	cyber operations and (See Cyber operations)
"necessary force" and, 379–81	force versus war, 30
9/11 attacks and, 369	historical background, 24–30
nuclear weapons and, 365	generally, 23–4
Obama Doctrine, 379–81	collective security and, 27
opinio juris and, 368	formal rules of war, 26–7
problems of implementation, 373	just war doctrine, 24-6
in Syria, 373–4	legal institution, war as, 26–7
weapons of mass destruction (WMD) and, 369	ICJ and, 39, 75, 77
Preventative self-defence	ILC on, 38–9
generally, 18, 261, 355, 357	international human rights law, relation to, 67
anticipatory self-defence	generally, 5, 24
generally, 360–1	aggression, determinations of, 70
expansionist approach, 361	implications of, 70–2
ICJ and, 362–3	jurisdiction of human rights bodies and, 71
international jurisprudence, 362–3	positive obligations of states and, 71–2
restrictionist approach, 361–2	right to life and, 68–9, 71
Six Day War and, 363–4	as jus cogens, 24, 38–40, 111
armed attack, determining when begins, 357–8	as peremptory norm, 38–40
confusion regarding, 358	reaffirmation of, 78–9
delay in responding distinguished, 358–9	recovery of territory and, 35
interception of armed attack, 359–60	sources of generally, 24
9/11 attacks and, 357	targeted killings and, 429
pre-emptive self-defence (See Pre-emptive	threat of force (See Threat of force)
self-defence)	Ukraine War as violation of, 73
use of term, 358	UN Charter Article 2(4)
Prohibition on use of force	generally, 30
generally, 1, 18, 23–4, 86–7	"against the territorial integrity or political
accountability	independence of any state," 33–5



549 Index

Rambouillet Agreement (1999), 502 armed force as covered by, 93-4, 95 Rasmussen, Anders Fogh, 213-14 as "cornerstone," 3-4, 31 domestic situations, exclusion of, 37 Ratner, Michael, 183 exceptions, lack of express mention of, 33 Ratner, Steven, 270 "in any other manner inconsistent with the Rebus sic stantibus, 75-6 purposes of the United Nations," 35-6 Recognition international relations, limitation to, 36-8 consent to intervention and, 455-9 regional organisations, applicability to, 37-8 non-recognition of governments, 49, 456 Security Council, applicability to, 38 Regional organisations. See also specific text of, 31, 32-3 organisation travaux préparatoires, 34, 92-3, 94 accountability for use of force, involvement as, types of force covered by, 92-4 violations of, 73 authorisation of use of force by Proportional forcible countermeasures, 290 generally, 136 Proportionality principle competence allocation, 167-9 accumulation of events theory and, 295-6, 321-2 concurrent competences, 168 armed reprisals and, 307 exclusive competence of Security Council, authorisation of use of force by Security Council versus self-defence, 316-17 Security Council, relation to, 138, 153-4, contextual nature of, 321 168-9 UN Charter Article 2(4), applicability of, 38 countermeasures and, 51 cyber attacks and, 318-19 Reisman, Michael, 507-8 dual role of, 298 Reparations, 50-1 Reporting requirement for self-defence, 344-9. further attacks, prevention of, 320-1 ICJ and, 297, 317-18, 320 See also Self-defence Reprisals. See Armed reprisals international humanitarian law (IHL) Responsibility to Protect compared, 4-5 jus in bello compared, 316 generally, 175-6 merger with necessity principle, 320 Darfur and, 212-13 non-state actors, self-defence against, 402 enforcement of secondary responsibility, nuclear weapons and, 320 208-11 protection of nationals abroad and, 329 General Assembly and, 209 qualitative proportionality, 318-19 High-Level Panel and, 208, 209-10 quantitative proportionality, 317-18 humanitarian intervention and, 487, 520-1, Security Council and, 151 525-6 self-defence and ICISS and, 207, 209-10 generally, 260-1 Kosovo situation as impetus for, 207 Libya and, 213-15, 520 as enabling actions in, 261-98 specific objective of defence and, 319-21 natural disasters and, 212 in state practice, 297-8, 319 normative legal status of, 211-12 targeted killings and, 430-1 Rwanda situation as impetus for, 207 Proxy, threat of force by, 41 Secretariat and, 208, 210 Psaki, Jen, 396 Security Council and, 208-9, 212 Putin, Vladimir, 45-6, 50, 91, 275, 332, 333, Somalia situation as impetus for, 207 342-3, 468, 509-10 sovereignty, relation to, 207-8 Syria and, 216-17 Oatar World Summit Outcome Document and, 208, humanitarian intervention in Syria and, 512 210-11 Rightslessness, 70 Islamic State and, 418 Qualitative proportionality, 318-19 Right to life Quantitative proportionality, 317-18 ECHR and, 437 Quigley, John, 176 HRC and, 68-9, 71, 418-38



550 Index

Right to life (cont.) Ruys, Tom, 109, 110, 129, 290, 300, 315, 345, ICCPR and, 68, 436-7 346, 350 non-arbitrariness standard, 437 Rwanda prohibition on use of force and, 68-9, 71 authorisation of force by Security Council in, targeted killings and, 436-7 Rio de Janeiro Inter-American Treaty of extraction of nationals from, 335 Reciprocal Assistance (1947), 31 French intervention in, 177-8 Roberts, Anthea, 507 Lusaka Ceasefire Agreement (1999), 240 Roosevelt, Franklin D., 29-30 Organization of African Unity and, 476-7 Roscini, Marco, 126 Security Council Resolution 918 (1994), 228 Rose, Michael, 237 Security Council Resolution 929 (1994), 177-8 Rouhani, Hassan, 43 Senegalese intervention in, 177-8 R2P. See Responsibility to Protect United Nations Assistance Mission for Rwanda Russia, See also Soviet Union (UNAMIR), 228, 237 on air strikes in Syria, 515 Chechen rebels and, 412, 417 Sana'a funeral bombing (2016), 483 commissions of inquiry (CoI) and, 65 Sanctions consent to intervention and, 448, 453-4 as countermeasures, 52 Crimea, annexation of, 45, 49, 73, 332 Iran, 160-1 cyber attacks and, 79 Iraq, 156-7, 351-2, 372 cyber operations and, 81, 82 as non-forcible measures, 53-4 DRC, opposition to intervention in, 241 North Korea, 147 genocide, allegations against Ukraine, 509-11 Sierra Leone, 205, 500-1 Georgia, intervention in, 65-6, 79-80, 317, Southern Rhodesia, 156 325, 331-2 Syria, 216 Iraq and San Francisco Conference (1945), 29-30, 361 no-fly zones, 498-9 Saudi Arabia consent to intervention and, 448 opposition to intervention in, 198 Kosovo, opposition to intervention in, 199, humanitarian intervention in Syria and, 512 Iraq, opposition to intervention in, 198-9 Libya, authorisation of force by Security Islamic State and, 418 Council and, 191 Operation Decisive Storm, 454-5, 468-9 Mali, opposition to intervention in, 243 Operation Renewal of Hope, 454-5 Nagorno-Karabakh dispute and, 303 UK arms sales to, 483 on NATO intervention in Yugoslavia, 503-4 Yemen, intervention in, 454-5, 468-83 Novichok poisoning by, 114-15 Scale and effects test, 98-9, 286, 401-2 protection of nationals abroad and, 325, Schabas, William A., 66-7, 71 326-7, 331-3 Schachter, Oscar, 34, 496 Rome Statute and, 63 Schmitt, Michael N., 271-2, 289 sanctions against, 52 Schwarzenberger, Georg, 307 self-defence and, 284-5 Schwebel, Stephen M. (ICJ Judge), 278-9, 347, 363 status of forces agreements and, 480-1 Second World War, 29 Syria and, 216, 465, 468, 480, 512, 514 Self-defence threat of force and, 45-6 generally, 18, 259, 261, 354 Turkish downing of Russian fighter jet, 50 accountability for use of force and, 52-3 Ukraine War and (See Ukraine War) anticipatory self-defence "unable or unwilling" doctrine and, 416 generally, 360-1, 398 US elections, interference in, 91 expansionist approach, 361 use of armed force in Ukraine, 97-103 ICJ and, 362-3 Russia-Ukraine Partition Treaty on the Status international jurisprudence, 362-3 and Conditions of the Black Sea Fleet restrictionist approach, 361-2 (1997), 480 Six Day War and, 363-4



551 Index

armed attack required for (See Armed attack) as separate procedural obligation, 345-6 armed reprisals distinguished, 291-310, Soleimani drone strike and, 346-7 313-15 in state practice, 346-8 collective self-defence (See Collective selftransparency of, 349 defence) Security Council, role of generally, 135-6, 343 consent to intervention and, 450-1 crime of aggression versus, 59, 60-1 reporting requirement, 344-9 in customary international law, 32, 260-1 "until clause," 349-54 cyber attacks and, 265-6, 271-2, 354-5 targeted killings as, 267-8, 283, 293-4, cyber operations as, 82, 84 429-30, 433 de minimis threshold for use of force and, temporal restrictions on right of, 355 textual source of right, 259-60 extinguishment of right threat of force and, 40 demand for cessation by Security Council, UN Charter Article 51 armed attack under, 261-2 forcible measures by Security Council, 352 perpetrators of armed attack, 262-3 sanctions and, 351-2 protection of nationals abroad, 324-5 seizing of issue by Security Council, 350-1 targets of armed attack, 267 "until clause," 349-54 text of, 259-60 humanitarian intervention versus, 494-5 weapons of mass destruction (WMD) and, 313, ICJ and, 260 ILC on, 53 Webster formula, 296, 307, 360, 364-5 imminence (See Imminence) Self-determination, consent to intervention and, interpretation of jus ad bellum and, 8 459-61, 475-84 justifications for use of force, 11 Senegal Kellogg-Briand Pact, omission in, 29 Gambia, intervention in, 449-50 lack of clarity regarding, 524-5 Rwanda, intervention in, 177-8 League of Nations, omission by, 259 Serbia, NATO bombing of Chinese embassy in, 128 NATO and, 171, 264, 350 Serbia and Montenegro, humanitarian intervention in, 490-1 necessity principle and (See Necessity Shaley, Gabriela, 292 principle) 9/11 attacks and, 96, 264-5, 266, 283-312, Sharp, Walter, 99 398, 403 Sheeran, Scott, 229 non-state actors, against (See Non-state actors, Siad Barre, Mohamed, 158 self-defence against) Sierra Leone novel right versus pre-existing right, 259-60 Armed Force Revolutionary Council (AFRC), 204-5 peacekeeping, use of force limited to selfarms embargo, 204-5 defence (See Peacekeeping) attacks on peacekeepers in, 252-3 pre-emptive self-defence (See Pre-emptive consent to intervention and, 448 self-defence) ECOMOG, participation in, 203 preventative self-defence (See Preventative ECOWAS intervention in, 169, 205, 238-9, self-defence) 500-1, 520-1 proportionality principle and (See humanitarian intervention in, 500-1, 520-1 Proportionality principle) implied authorisation of use of force by protection of nationals abroad (See Nationals Security Council, 204-5 abroad, protection of) Organization of African Unity and, 476-7 reporting requirement, 344-9 sanctions, 205, 500-1 generally, 10-11 UK intervention in, 238-9 frequency of, 348 United Nations Mission in Sierra Leone (UNAMSIL), 238-9, 247 ICJ and, 344-5, 346, 347 as precondition to acts in self-defence, 345 United Nations Observer Mission in Sierra

probative value of, 347

Leone (UNOMSIL), 238



552 Index

Simma, Bruno (ICJ Judge), 290, 506 Botswana, intervention in, 400 Six Day War (1967), 231 "unable or unwilling" doctrine and, 416 Skripal, Sergei, 112-16 South East Asia Collective Defence Treaty (1945), Skripal, Yulia, 112-16 Sloan, James, 225, 252 Southern African Development Community Slovenia (SADC), 478 independence of, 235 Southern Arab Federation (SAF), 291-2 on Kosovo intervention, 200 Southern Rhodesia. See also Zimbabwe on regional organisations, 172 arms embargo, 156 Smith, Ian, 156 sanctions, 156 Solana, Javier, 502 Security Council and, 156 SolarWinds cyber attack, 79-80 Zambia, aggression against, 147 Soleimani, Qassem, targeted killing of (2020) South Korea, North Korean invasion of, 147, accumulation of events theory and, 293-4 154-6, 341-2. See also Korean War armed attack and, 267-8 (1950-1953)contextual imminence and, 389-95 South Sudan criticism of, 283 United Nations Interim Security Force for international human rights law and, 71 Abyei (UNISFA), 247 as law enforcement action, 114-17 United Nations Mission in South Sudan protection of nationals abroad and, 323-6, (UNMISS), 247 330-1, 334-5 Sovereignty reporting requirement for self-defence and, cyber operations and, 83 346 - 7Responsibility to Protect, relation to, 207-8 Somalia Soviet Union. See also Russia African Union Transition Mission in Somalia Afghanistan, intervention in, 73, 346, 470-1, (ATMIS) 237-8 African Union/United Nations Force in breakup of, 456 Somalia (AMISOM), 237-8 collective self-defence and, 336 "all necessary means" and, 237-8 consent to intervention and, 448, 474 Cuba removal of missiles from 366 attacks on peacekeepers in, 252-3 authorisation of force by Security Council in, Cuban Missile Crisis (1962) and, 365-6 158-9, 176-7, 178 Czechoslovakia, intervention in, 73, 342, drones, use in, 429, 438 470-1 Ethiopian intervention in, 347-8 Hungary, intervention in, 73 Kenyan intervention in, 415-16, 422-3 Spain "Mogadishu line," 237 commissions of inquiry (CoI) and, 65 Security Council Resolution 794 (1992), 158, foreign vessels, law enforcement actions 176-7, 189, 508 against, 118 Transitional Federal Government, 422-3 Libya, intervention in, 190-1 "unable or unwilling" doctrine and, 415-16 Rome Statute and, 63 Unified Task Force (UNITAF), 158-9, 189 Sri Lanka on use of force in self-defence in United Nations Operation in Somalia territory of other states, 266 (UNOSOM I), 158-9, 251 Stabilisation missions United Nations Operation in Somalia consent of parties and, 250 (UNOSOM II), 158-9, 236-7 impartiality and, 251 UNOSOM I, 158 self-defence, use of force limited to, 248 US intervention in, 158-9, 207, 237 Stahn, Carsten, 209 Somoza, Anastasio, 55 Stalin, Joseph, 29-30 Sony Pictures malware, 79-80 State practice accumulation of events theory in, 291-4 South Africa African National Congress, 459 armed attack, use of force distinguished, 281-5 collective self-defence in, 340-2 Angola, aggression against, 147



humanitarian intervention generally, 487, 494, 511–12	France and, 458–9, 512, 514, 516–17 General Assembly and, 150–1, 165–6
ICJ Statute Article 38 and, 31 interpretation of <i>jus ad bellum</i> and, 9–10	humanitarian intervention in generally, 487, 512–13
necessity principle in, 297-8	debate regarding air strikes, 513-14
negative equality principle in, 464–5	Responsibility to Protect and, 514
proportionality principle in, 297-8, 319	Iran and, 512
reporting requirement for self-defence in, 346–8	Islamic State in, 406, 416, 417–18, 421–4, 425 465
Status of forces agreements, 480-1	Israeli air strikes in, 292-3, 373-4, 387, 524-
Stevenson, Adlai, 366	NATO and, 216
Sthoeger, Eran, 165	pre-emptive self-defence in, 373-4
Stimson Doctrine, 49	Responsibility to Protect and, 216-17
Stoltenberg, Jens, 343	Russia and, 216, 465, 468, 480, 512, 514
Stuxnet cyber attack, 79-80, 96, 97-8, 100-1,	sanctions, 216
160-1, 287	Security Council and, 216
Sudan	supply of arms by, 279
African Union/United Nations Force in Sudan	Syrian National Council (SNC), 458-9
(UNAMID), 239-40, 247	UK air strikes on, 516–19
Darfur	"unable or unwilling" doctrine and, 416
African Union intervention in, 170, 213	Uniting for Peace (UfP) process and, 166-7
Janjaweed militia, 212	US and
peacekeeping in, 253-4	air strikes by, 315, 396, 515-17
Responsibility to Protect and, 212-13	consent to intervention and, 473-4
Security Council Resolution 1706 (2006),	humanitarian intervention by, 512
213	Responsibility to Protect and, 216
Security Council Resolution 2559 (2020), 239–40	Syrian National Council (SNC), 458-9
Janjaweed militia, 212	Taft, William, 184
United Nations Interim Security Force for	Taiwan, China and, 42, 155
Abyei (UNISFA), 247	Tallinn Manual on the International Law
United Nations Mission in Sudan (UNMIS), 239	Applicable to Cyber Warfare, 84, 86, 98,
US air strikes in, 309, 310, 411	101, 102, 286, 294
Suez crisis (1956)	Talmon, Stefan, 394
United Nations Emergency Force (UNEF I),	Tams, Christian, 413, 414
230–2, 246	Tanganyika, consent to intervention and, 448
Uniting for Peace (UfP) process and, 166–7	Tanzania
Suicide bombers, 2	humanitarian intervention by, 494-5
Suriname	Tanganyika, consent to intervention and, 448
oil rig dispute (2000), 122–3	US embassy, armed attack on, 270–1, 273,
proxy law enforcement actions and, 122-3	283–312, 411, 436
Sweden	Targeted killings
NATO and, 343	generally, 401, 428
on pre-emptive self-defence, 367–8	of al-Qaida, 114–17, 431
Syria	as armed force, 96
Arab League and, 217	consent to intervention and, 429
Bush Doctrine in, 373–4	de minimis threshold for use of force and,
chemical weapons in, 41–2, 315, 513, 514,	112-16
515-17	drones, use of, 429, 433, 438–9 imminence and, 383, 388
civil war in, 446, 462, 465, 468 collective self-defence and, 340–1	imminence and, 383, 388 international humanitarian law (IHL) and
drones, use in, 438	generally, 428, 432



Targeted killings (cont.)	determinations, 144-7
civilians, protection of, 434-5	discretion regarding determinations, 144-5
continuous combat function, 434-5	forcible measures in response to, 146-7
duty to capture, 435-6	threat of use of force and, 146
intensity requirement, 433-4	Tinoco Concessions arbitration (1923), 452
in non-international armed conflict, 433-4	Tokyo Military Tribunal, 362
organization requirement, 433-4	Torrey Canyon shipwreck bombing (1967), 118
international human rights law (IHRL) and	Trapp, Kimberley, 410-11, 414
generally, 71, 428, 436	Treaties. See also specific treaty
extraterritoriality and, 437-9	consent to intervention and, 476-7
right to life and, 436–7	interpretation of jus ad bellum and, 6
as law enforcement actions, 114-17	Treaty of Amity, Economic Relations and
necessity principle and, 430-1	Consular Rights between the United States
prohibition on use of force and, 429	and Iran (1955), 274
proportionality principle and, 430-1	Treaty of Versailles (1919), 50
as protection of nationals abroad, 323-6,	Treaty on the Non-Proliferation of Nuclear
330-1, 334-5	Weapons (1968), 46
as self-defence, 267-8, 283, 293-4, 346-7,	Treaty on the Prohibition of Nuclear Weapons
429–30, 433	(2017), 46
Soleimani drone strike (See Soleimani, Qassem,	Trump, Donald, 43-4, 47, 74-5, 267-70, 281,
targeted killing of (2020))	282, 293-4, 295, 317, 323-6, 342, 346-7,
Targeted killings generally, 440	381-6, 389-95, 515-16
Taylor, Charles, 203-4, 499-500	Tsagourias, Nicholas, 152-3, 161, 249, 287
Terrorism. See also specific group or person	Tunisia, Israeli intervention in, 147, 400, 410,
generally, 2	411-12
global war on terror, 433-6	Turkey
imminence and, 388	Cyprus, invasion of, 49
Leiden Policy Recommendations and, 436	Iraq, intervention in, 347-8, 400, 412, 479-80
scale and effects test and, 401-2	Russian fighter jet, downing of, 50
self-defence and (See Non-state actors, self-	"unable or unwilling" doctrine and, 416
defence against)	US missiles, removal of, 366
suicide bombers, 2	Turkish Republic of Northern Cyprus, non-
Thakur, Ramesh, 137-8	recognition of, 49
"Thin red line," 506-7	
Thirty Years War, 25	Uganda
Threat of force	Armed Activities case (See Armed Activities
generally, 24, 40–1	case (ICJ 2005))
aggression, crime of (See Aggression, crime of)	consent to intervention and, 448
communicative nature of, 42-4	DRC, intervention in, 409-10, 451, 479
credibility of, 47	Entebbe hostage crisis (1976), 334
demand or ultimatum requirement, 41-2	humanitarian intervention in, 494-5
ICC and, 48	Israeli rescue of hostages in, 334
ICJ and, 40-1, 44, 46-7, 54-5	Lusaka Ceasefire Agreement (1999), 240
jus cogens, prohibition not deemed, 48	pre-emptive self-defence and, 378-9
non-verbal or written threats, 44-7	Ukraine. See also Ukraine War
nuclear weapons and, 47	consent to intervention and, 448, 453-4
by proxy, 41	Constitution, 453
self-defence and, 40	Crimea, Russian annexation of, 45, 49, 73, 332
use of force versus, 48	Donetsk People's Republic, 49, 342-3, 448, 509
Threats to peace	genocide, allegations by Russia, 509-11
generally, 138, 143-4	Lugansk People's Republic, 49, 342–3, 448, 509
cyber attacks as, 145–6	NATO and, 43-6, 343



555 Index

status of forces agreements and, 480-1 Foreign Affairs Committee, 506-7 use of armed force by Russia in, 97-103 foreign vessels, law enforcement actions Ukraine War against, 118 generally, 1-2 on humanitarian intervention, 496, 504, 512 collective self-defence and, 342-3 humanitarian intervention in Syria and, 512, conventional weapons in, 2 513-14 nuclear power plants and, 343 on imminence, 381-2, 384 protection of nationals abroad and, 326-7, 332-3 Iraq and Secretariat and, 143 intervention in, 197-8, 453 Security Council involvement in, 53, 173 no-fly zones, 498-9 self-defence and, 275 Iraq Inquiry, 186, 188, 373 threat of force and, 45-6 Iraq War and, 1, 53, 180 Uniting for Peace (UfP) process and, 167 Islamic State, action against, 430-1 as violation of prohibition on use of force, 73 Joint Parliamentary Committee on Human "Unable or unwilling" doctrine Rights, 384, 387-8, 431-2 generally, 414-19 law enforcement actions in, 113-29 able but unwilling states and, 424-5 Libya, intervention in, 190-1 Bethlehem Principles and, 416, 418-21, 424-5, Manual of the Law of Armed Conflict (2004), Chatham House Principles and, 416-17 on NATO intervention in Yugoslavia, 503, 506-7 consent and, 426-7 on negative equality principle, 465 failed states and, 422-3 on pre-emptive self-defence, 372, 377-8 lack of clarity regarding, 525 Saudi Arabia, arms sales to, 483 legal status of, 427-8 Sierra Leone, intervention in, 238-9 Leiden Policy Recommendations and, 416, 417, Southern Arab Federation (SAF) and, 291-2 418-20, 425-6 Suez crisis and, 230-1 problems with, 420-8 Syria, air strikes on, 516-19 protection of nationals abroad and, 333-5 targeted killings by, 114-17, 383, 388, 428, unable and unwilling states and, 418-21 429-38 unable but willing states and, 423-4 threat of force and, 41-2 Unilateralism, 175, 176-9 "unable or unwilling" doctrine and, 416, United Arab Emirates, Islamic State and, 418 420-1, 427 United Kingdom Yemen, air strikes in, 291-2, 308, 309, 310 accumulation of events theory and, 291-2 United Nations Charter on armed attack by non-state actors, 265 absence of states withdrawing from, 76 Brexit, 79-80 adoption of, 1, 29-30 Caroline incident (1837) (See Caroline incident armed reprisals and, 307-8 Article 1, 224 collective self-defence and, 343 Article 2(4) (See Prohibition on use of force) commissions of inquiry (CoI) and, 65, 66 Article 39 (See also United Nations Security on consent to intervention, 446 Council)acts of aggression, 147-8 consent to intervention and, 448 breaches of peace, 147-8 Corfu Channel case and (See Corfu Channel threats to peace, 144-7 case (ICJ 1949)) Article 41, 148 on counterintervention, 470-6 Article 42, 148 (See also United Nations cyber attacks and, 79-80, 286-7 Security Council) cyber operations and, 83 Article 43, 148-9 DRC, intervention in, 241 Article 51 (See Self-defence) drones, use of, 438 Article 52, 167 (See also Regional extraction of nationals by, 333, 335-6 organisations) Article 53, 168 (See also Regional Falkland Islands, response to seizure of, 302, 348, 353-4 (See also Falklands War (1982)) organisations)



556 Index

United Nations Charter (cont.) United Nations Human Rights Committee Chapter VI, 225 objections to approach, 69-70 Chapter VII (See specific topic) rightslessness and, 70 collective security and, 135 right to life and, 68-9, 71, 418-38 collective self-defence and, 336 United Nations Human Rights Council, 65 crime of aggression and, 57-8 United Nations Office of Legal Affairs, 229 customary international law, relation to, 32 United Nations Secretariat force versus war, 30 generally, 136 humanitarian intervention and (See Agenda for Peace, 142-3 Humanitarian intervention) High-Level Panel on Threats, Challenges and interpretation of jus ad bellum and, 7 Change, 187-8, 208, 209-10, 375 lack of appetite for changing, 523-4 In Larger Freedom, 208, 210, 375-6 maintenance of peace and security, 135 peacekeeping and, 222-3 powers of, 142-3 non-intervention principle and, 90 prohibition on use of force (See Prohibition on Responsibility to Protect and, 208, 210 use of force) Security Council, relation to, 142-3 Security Council, forcible measures in United Nations Security Council accordance with, 150 generally, 136 self-defence (See Self-defence) abductions and, 113-20 travaux préparatoires, 491 accountability for use of force, involvement as, VCLT and, 7-8 53-4 United Nations Convention on the Law of the Sea acts of aggression and (UNCLOS) (1982), 31, 118 generally, 138, 143-4 United Nations Department of Peacekeeping determinations, 70, 147-8 (DPK), 222 authorisation of use of force by (See United Nations General Assembly Authorisation of use of force by Security generally, 136 Council) breaches of peace authorisation of use of force by, 165-7 commissions of inquiry (CoI), 65 generally, 138, 143-4 Declaration on Friendly Relations (See determinations, 147-8 Declaration on Principles of International commissions of inquiry (CoI), 14, 65 Law Concerning Friendly Relations and debates regarding membership, 137-8 Co-operation among States (1970)) failures of, 75-6 Declaration on the Inadmissibility of peacekeeping emerging from, 220 Intervention in the Domestic Affairs of forcible measures States (1965), 463 generally, 138, 143, 148 Declaration on the Non-Use of Force (1987), 93-4 inadequacy of non-forcible measures, 300 Definition of Aggression (1974) (See Definition international humanitarian law, subject to, of Aggression (1974)) ICJ and, 140-1, 142 jus cogens, subject to, 151 Implementation of the Declaration on the legibus solutus not applicable, 149 Granting of Independence to Colonial limitations on, 149-53 Countries and Peoples (1972), 460 necessity principle and, 151 Interpretation of jus ad bellum and, 16 peremptory norms, subject to, 151 Korean War and, 155-6 proportionality principle and, 151 limitations on, 141-2 threats to peace, in response to, 146-7 peacekeeping and, 224 UN Charter, acts in accordance with, 150 powers of, 141 foreign civil aircraft, law enforcement actions recommendations, 141 against and, 118 recommendation versus authorisation, 166 General Assembly, relation to, 141-2, 150-1, 165 Responsibility to Protect and, 209 humanitarian intervention justified by failure Security Council, relation to, 141-2, 150-1, 165 of, 507-8



557 Index

ICJ and, 139-40, 151 collective self-defence and, 336, 338, 341 ICTY compared, 149 commissions of inquiry (CoI) and, 65 Interpretation of jus ad bellum and, 16 consent to intervention and, 448, 449-50, 473, Korean War and, 154-6 475-6, 479, 481, 482 legally binding nature of decisions, 139-40 Cuban Missile Crisis (1962) and, 365-6 limited membership, 137 cyber attacks and, 79-80, 318, 319 maintenance of peace and security, 137 cyber operations and, 81, 85-6 Military Staff Committee, 149, 153 drones, use of, 438 non-forcible measures, 138, 148 extraction of nationals by, 335, 336 pacific settlement of disputes, 138, 225, 492 Grenada, intervention in, 73, 327-30, peacekeeping and (See Peacekeeping) Gulf War and, 41, 53-4, 157 permanent members, 3, 137 on imminence, 384, 388 powers of, 138 primacy of decisions, 139 armed attack on embassy by, 271 regional organisations, relation to, 138, 153-4, attempted rescue of hostages in, 333-4 Resolutions (See specific country) downing of civil aircraft, 122, 127 Responsibility to Protect and, 208-9, 212 "Eagle Claw" mission, 271 Secretariat, relation to, 142-3 oil platforms, armed attack on, 274, 301-10, self-defence, role in 317-18 generally, 135-6, 343 proportionality principle and, 317-18 reporting requirement, 344-9 threat of force against, 43 "until clause," 349-54 threat to military vessels by, 268, 293 threats to peace use of armed force in, 97-112 generally, 138, 143-4 Iraq and cyber attacks as, 145-6 air strikes in, 309, 330, 453 determinations, 144-7 embassy, armed attack on, 269, 281 discretion regarding determinations, 144-5 intervention in, 197-8 forcible measures in response to, 146-7 Islamic State, action against, 483-4 threat of use of force and, 146 no-fly zones, 498-9 troops supplied by member states, 148-9 targeted killings in, 334-5 UN Charter Article 2(4), applicability of, 38 Iraq War and, 1, 53, 73, 180, 185, 187 Uniting for Peace (UfP) Resolution, 155-6, Islamic State, action against, 416, 417-18 166-7, 173, 209, 508 Kenya, armed attack on US embassy in, 270-1, veto power, 3, 137-8 273, 283-312, 411, 436 United States on Kosovo intervention, 199 abductions by, 114-20 Libya, intervention in, 190-1 accumulation of events theory and, 293-4 National Security Strategy (NSS) (2002), 370, Afghanistan and air strikes by, 309, 310, 411 National Security Strategy (NSS) (2006), 373 attack on al-Qaida in as self-defence, 266, National Security Strategy (NSS) (2010), 379 273, 310, 313, 320-1, 368-9, 407-8, on NATO intervention in Yugoslavia, 503 411-12 Nicaragua, intervention in, 55, 91-2, 102-3, al-Qaida and 344-5, 451, 496-7 Afghanistan, intervention in, 368, 403 9/11 attacks (See 9/11 attacks) attack by as self-defence, 266, 273, 310, 313, Oil Platforms case (See Oil Platforms case (ICJ 2003)) 320-1, 368-9, 407-8 US embassies, armed attacks on, 273, 411 Operation Desert Fox, 184-5 Authorization for Use of Military Force (2001), Pakistan, intervention in, 412, 475-6 429 - 32Panama, intervention in, 73, 328-30, 449-50, Caroline incident (1837) (See Caroline incident 459 (1837))on pre-emptive self-defence, 368



United States (cont.)	importance of establishing, 111-12
protection of nationals abroad and, 324,	jus cogens and, 111
325-31, 333-5	law enforcement actions distinguished, 112-18
on Responsibility to Protect and, 215	self-defence and, 111-12
Rome Statute and, 63	targeted killings and, 112-16
Russian interference in elections, 91	General Assembly, authorisation by, 165-7
self-defence and	gravity element generally, 105, 123-4
Afghanistan, attack on al-Qaida in as, 266,	law enforcement actions distinguished, 112–18
273, 310, 313, 320-1, 368-9, 407-8,	generally, 112-13
411–12	abductions, 113–14
9/11 attacks and, 96, 264-5, 266, 283-312,	foreign civil aircraft, against, 118
320-1, 398, 403, 407-8	foreign individuals or groups, against,
state practice regarding, 281–4	116-17
targeted killings as, 267–8, 283, 293–4,	foreign vessels, against, 118
346-7, 433	proxy actions, 121–3
Soleimani drone strike (See Soleimani, Qassem,	Soleimani drone strike and, 114–17
targeted killing of (2020))	targeted killings, 114–17
Somalia, intervention in, 158-9, 207, 237	mens rea element
Sudan, air strikes in, 309, 310, 411	generally, 125–6
Syria and	coercion as basis of requirement, 125-6
air strikes on, 315, 396, 515–17	hostile intent, 128–9
consent to intervention and, 473-4	ICJ and, 103–26
humanitarian intervention in, 512, 514	intention versus general motives for action,
Responsibility to Protect and, 216	126-7
Syrian National Council (SNC), 458–9	mistake and, 127–8
Tanzania, armed attack on US embassy in,	non-intervention principle
270–1, 273, 283–312, 411, 436	in customary international law, 90
targeted killings by, 96, 114–17, 267–8, 283,	ICJ and, 91–2
293-4, 324, 325-6, 330-1, 334-5, 346-7,	interference distinguished, 90–1
428, 429–31 (<i>See also</i> Soleimani, Qassem,	UN Charter and, 90
targeted killing of (2020))	non-state actors, self defence against (See
threat of force and, 41, 43–4	Non-state actors, self-defence against)
Turkey, removal of missiles from, 366	in peacekeeping, 221-4
"unable or unwilling" doctrine and, 416,	prohibition on (<i>See</i> Prohibition on use of force)
418–22, 427	regional organisations, authorisation by
Venezuela and, 44–56	generally, 136
Uniting for Peace (UfP) process, 155–6, 166–7,	competence allocation, 167–9
173, 209, 508	concurrent competences, 168
Uniting our Strengths for Peace Report (2015),	exclusive competence of Security Council,
246-7, 254-5	168-9
Urquhart, Brian, 252	Security Council, authorisation by (See
Use of force	Authorisation of use of force by Security
generally, 18, 89, 130	Council)
accumulation of events theory, 290–6 (See also	self-defence (See Self-defence)
Accumulation of events theory)	threat of force versus, 48
aggression distinguished, 107-9	types of force covered by UN Charter, 92–4
"all necessary means" versus, 189	types of force covered by off charter, 32 T
armed attack distinguished (See Armed attack)	VanLandingham, Rachel, 393
armed force (See Armed force)	Vattel, Emer de, 25
de minimis threshold	Venezuela
generally, 109	"unable or unwilling" doctrine and, 416
acts falling below. 110	United States and, 44–56



559 Index

Webster formula, 296, 307, 360, 364-5 Vermeer, Zachary, 469 Vienna Convention on Diplomatic Relations Weightman, M.A., 337 (1961), 128 West Irian, United Nations Security Force (UNSF), Vienna Convention on the Law of Treaties (VCLT) (1969) Weston, Berns, 176 White, Nigel D., 146, 150, 152-3, 156-7, 165, coercion and, 475 consent to intervention and, 449 166, 229, 247 interpretation of jus ad bellum and, 7-8 Wilson, Woodrow, 27-8 peremptory norms under, 38 Wippman, David, 205 UN Charter and, 7-8 WMD. See Weapons of mass destruction (WMD) Vietnam Wood, Michael, 165, 202 collective self-defence and, 336, 338 World Summit Outcome Document (2005), 78, humanitarian intervention by, 494-5 on pre-emptive self-defence, 376 Wright, Jeremy, 381-2, 383, 384, 385, 397 Wright, Quincy, 464 Waldheim, Kurt, 233-4, 246 Waldock, Humphrey, 322-3, 333, 353, 360 Xi Jinping, 42 WannaCry ransomware, 79-80 Warsaw Pact Yanukovych, Viktor, 332, 448, 453-4, 455 collective self-defence and, 337-8, 342 Czechoslovakia, intervention in, 475 al-Oaida in, 469 emergence of, 153 armed attacks by, 291-2 self-defence and, 350 on authorisation of force by Security Council, Weapons civil war in, 468-9 aircraft as, 96 armed force, types of weapons used in, 95-6 consent to intervention and, 448, 454-5, 473 autonomous weapons, 526 drones, use in, 429, 438 cyber attacks and, 96 Houthis in, 454-5, 468-83 defined, 96 Iranian intervention in, 455, 470, 471 evolution of, 2 Islamic State in 469 kinetic force, 95 Sana'a funeral bombing (2016), 483 necessity principle, relevance of nature of Saudi intervention in, 454-5, 468-83 weapons used to, 313 Security Council Resolution 2216 (2015), 455 WMD (See Weapons of mass destruction UK air strikes in, 291-2, 308, 309, 310 (WMD)) Yugoslavia. See also specific country Weapons of mass destruction (WMD) attacks on peacekeepers in, 252-3 authorisation of use of force by Security breakup of, 456 Council and, 183 Kosovo Albanians, repression of, 501 chemical weapons NATO attacks in, 200, 502-4 Novichok poisoning, 114-15 United Nations Protection Force (UNPROFOR), in Syria, 41-2, 315, 513, 514, 515-17 235-6, 247-8 Cuban Missile Crisis (1962) and, 366 Iraq and, 371 Zambia, Southern Rhodesian aggression against, jus ad bellum and, 2 nuclear weapons (See Nuclear weapons) Zimbabwe. See also Southern Rhodesia pre-emptive self-defence and, 369 on authorisation of force by Security Council, self-defence and, 313, 398 176 - 7Webster, Daniel, 296 Lusaka Ceasefire Agreement (1999), 240