

# International Law

2012 Does the customary international law grant the right to use force to a state in response to a terrorist attack on it? Substantiate your answer by arguing from A-51 (4) of the the A(2) of the UN charter and other recent examples in this regard.

## Introduction

The modern international law prohibits the use of force by a state against another state by all means. According to Article-2(4) of the UN charter states cannot intervene in each others territorial and political integrity. whereas Article-51 speaks about certain conditions where use of force is allowed but there are some limitations implied. Moreover, terrorism is a type of warfare used by the states against their enemies, for which the international ~~humanitarian~~ law does not provide any justification as the ground for intervention.

## Grounds on which intervention is allowed

### → Self defence

According to A-51 of the UN charter, a state can only go for self-defence if an armed attack has occurred on its territory. It is also necessary for that state to first report to the UN Security Council and until UNSC comes up with a solution, the state can defend its territory.



As soon as the Security Council interferes in the matter both the states are obliged to follow their instructions as stated in the Article 25 of the UN Charter that the decisions of the Security Council are binding in nature.

India vs Pakistan 1948-1949: In an armed conflict between India and Pakistan in 1948. UNSC seeing an existential threat to Pakistan justified Pakistan's right to self-defence and immediately announced cease fire.

### → Upon Authorization of the UNSC

United Nations Security Council can authorize any state on their behalf to intervene if another state is being aggressive. According to Article 24 of the UN Charter, UNSC is responsible for the maintenance of peace and security among the countries.

USA in Iraq 2003 - United States intervened in Iraq because they inspected weapons of mass destruction in Iraq. ~~later on, this war was criticized~~ UNSC had passed the resolution allowing USA to intervene.

### → Collective Intervention by UNSC

Articles 39, 41, 42 and 43 state the response of UNSC if an armed attack has occurred on one of its members. At first, UN shall determine if there has been an act of aggression committed and



What should be the recommendations to counter it. UNSC has the authority to enforce sanctions on the aggressive state or use blockade at its <sup>coastal</sup> borders and lastly, it has the authority to intervene militarily in its territory. Since UNSC does not own a military, its member nations can provide their militia's as peace-keeping soldiers of the UN.

UNSC in Libya (2011) - UNSC intervened in Libya in 2011 to protect civilians from violence and on humanitarian grounds.

## Use of force in response to Terrorism

Terrorism is a type of warfare which is used to induce fear in masses and pressurize the decision makers to decide in favour of the terrorists. Terrorism can be state-sponsored or by a certain group of individuals. It is a well-planned, objective-oriented and target-focused type of 4<sup>th</sup> generational warfare tactic.

## Legality of war on the basis of terrorism

International law does not justify intervention on the basis of terrorism grounds. If a country claims to intervene into another country on the basis of terrorism, the Security Council and the judicial organs of the UN condemn such acts. For example, in the Nicaragua vs USA case of



the 20<sup>th</sup> century. ICJ gave a remarkable judgement that terrorism cannot be the only justification for the states intervention into another state's territory. Same judgement was repeated in the Congo vs Uganda case.

Since decisions of the judicial organs are the secondary sources of law and the only way to interpret law. This can be stated that international law does not permit such acts of aggression.

SC resolution 1368: The 9/11 US attacks were termed as terrorist attacks in the UNSC resolution of 1368 but they were not declared as armed attacks. Thus, this resolution did not authorize US for intervention in Afghanistan.

On these grounds, the current resurgence of Russia and its intervention in Ukrainian territory cannot be justified as a legal annexation. According to Article 51 and Article 2(U), it is an open violation of the international law. Whereas, Ukraine can exercise its right to self-defence and self-preservation according to Article 3(A) of the UN Charter.

Furthermore, the Middle Eastern conflict regarding Saudi-Iran Proxy wars are also a violation of the international law. Since according to Article 2(7) of the UN Charter, UN isn't allowed to intervene



in the domestic affairs of any state. The civil-wars of the middle east cannot be legally addressed in terms of the international law. Therefore, it can be considered as the vulnerability of law.

## Conclusion:

In the light of the above discussion, it can be concluded that states with expansionist agendas such as Russia in the Ukrainian conflict, India in the Indo-Pak war and Saudi-Iran rivalry in the middle east use have used terrorism as the bases of intervention in other states territories. According to the UN charter, the grounds of intervention are clearly defined which have been discussed above. Therefore, the war is not justified if the aggressive state intervenes on the basis of terrorism.