

**THE IRAN–ISRAEL/US CONFLICT AND INTERNATIONAL
LAW: EXAMINING THE JUS AD BELLUM, JUS IN BELLO, AND
STATE RESPONSIBILITY FRAMEWORKS**

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Abstract

The escalating military confrontation involving Iran, Israel, and the United States presents some of the most complex and contested questions in contemporary public international law. This article examines the conflict through three principal legal lenses: the jus ad bellum framework governing the resort to force under the United Nations Charter; the jus in bello rules of international humanitarian law applicable to the conduct of hostilities; and the law of state responsibility as it pertains to proxy actors, attributable conduct, and countermeasures. The article critically evaluates competing claims of self-defence under Article 51 of the UN Charter, the legality of targeted killings and drone strikes, the legal status of proxy forces such as Hezbollah and the Houthis, the applicability of humanitarian law to the Gaza conflict, and the role or paralysis of the UN Security Council. Drawing on treaty law, customary international law, ICJ jurisprudence, and leading academic scholarship, this article argues that all principal parties bear potential legal responsibility under international law.

Keywords: jus ad bellum, jus in bello, self-defence, state responsibility, UN Charter, targeted killing

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1.0 INTRODUCTION

The military confrontations between Iran and Israel, and the direct involvement of the United States, have reawakened longstanding debates about the limits of permissible force under international law. The United Nations Charter system, built on the prohibition of the use of force in Article 2(4) and the narrow exceptions of Chapter VII collective security and Article 51 self-defence, was designed for a world of conventional inter-state aggression.¹ Yet the Iran–Israel–US confrontation is characterised by asymmetric warfare, state-sponsored proxy actors, extra-territorial operations, covert sabotage, and the threat of weapons of mass destruction. These features strain the interpretive capacity of existing legal frameworks and generate acute disagreement among states and international lawyers alike.²

The escalation reached an unprecedented threshold with Iran's direct missile and drone assault on Israeli territory in April and October 2024 the first such direct attack in the history of the two states' confrontation. Israel's sustained military campaign in Gaza, its strikes on Iranian military assets in Syria, and the United States targeted killing of senior Iranian commanders have each attracted intense legal scrutiny.³

This article proceeds as follows. Section II examines the jus ad bellum and the lawfulness of the resort to force by each of the principal parties. Section III addresses jus in bello obligations under international

¹UN Charter, Art 2(4).

²Malcolm Shaw, *International Law* (9th edn, Cambridge University Press 2021) 1009–1015.

³Christine Gray, *International Law and the Use of Force* (4th edn, Oxford University Press 2018) 1–10.

humanitarian law. Section IV analyses questions of state responsibility, attribution, and countermeasures. Section V considers the role of the UN Security Council and institutional accountability. Section VI concludes with reflections on the implications for the international legal order.

2.0 JUS AD BELLUM: THE LAWFULNESS OF RESORT TO FORCE

A. The Prohibition on the Use of Force and Its Architecture

Article 2(4) of the UN Charter obliges all member states to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations.⁴ The International Court of Justice (ICJ) confirmed in *Military and Paramilitary Activities in and against Nicaragua* that this prohibition constitutes a peremptory norm of general international law (*jus cogens*) and applies equally to direct and indirect uses of force.⁵

The Charter provides only two exceptions to the prohibition: collective measures authorised by the Security Council under Chapter VII, and individual or collective self-defence under Article 51.⁶ The Iran–Israel–US conflict has been framed by all parties primarily around the latter exception. The requirements of necessity and proportionality, which

⁴UN Charter, Arts 2(4), 51.

⁵*Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v United States of America*) (Merits) [1986] ICJ Rep 14, paras 187–190.

⁶*ibid*, para 190.

govern the exercise of self-defence as a matter of customary international law, are accordingly central to any legal assessment.⁷

B. Self-Defence Under Article 51: The Israeli Position

Israel has consistently invoked the right of self-defence to justify its military operations against Iranian military infrastructure in Syria, targeted assassinations of Iranian commanders, and its campaign in Gaza. Following Hamas's attack of 7 October 2023, which Israel attributes to Iranian state support, Israel declared a state of armed conflict and invoked Article 51 in communications to the UN Secretary-General.⁸

The lawfulness of self-defence under Article 51 is conditioned by customary requirements of necessity and proportionality. As affirmed by the ICJ in *Legality of the Threat or Use of nuclear weapons*⁹ and reiterated in *Oil Platforms*¹⁰, force used in self-defence must be necessary to repel the armed attack and proportionate to that attack. The right of self-defence includes the right to pursue the enemy beyond the immediate theatre of hostilities, provided that necessity demands it.¹¹ However, the scale of civilian harm in Gaza which the ICJ found to give rise to a

⁷Yoram Dinstein, *War, Aggression and Self-Defence* (6th edn, Cambridge University Press 2017) 85–90.

⁸UN Charter, Art 51; Letter from Israel to UN Secretary-General, UN Doc S/2023/770 (9 October 2023).

⁹Legality of the Threat or Use of Nuclear Weapons (Advisory Opinion) [1996] ICJ Rep 226, para 41.

¹⁰Oil Platforms (Islamic Republic of Iran v United States of America) (Merits) [2003] ICJ Rep 161, paras 43–77.

¹¹Yoram Dinstein, *War, Aggression and Self-Defence* (6th edn, Cambridge University Press 2017) 207–220.

plausible risk of irreparable prejudice to Palestinian rights raises serious questions under this framework.¹²

C. Anticipatory and Pre-emptive Self-Defence

A persistent controversy concerns the legality of anticipatory self-defence. The *Caroline* formula of 1837 established that the necessity of self-defence must be instant, overwhelming, and leaving no choice of means and no moment for deliberation.¹³ This standard was endorsed by the ICJ in *Armed Activities on the Territory of the Congo*¹⁴ and is generally regarded as reflecting customary international law.

While a small number of states support a broad doctrine of anticipatory self-defence against accumulating threats, the majority of states and the preponderance of scholarship interpret Article 51 as requiring an actual or imminent armed attack.¹⁵ Thomas Franck similarly warned that unilateral expansion of the self-defence exception risks providing a legal veneer for preventive wars.¹⁶ The United States' invocation of self-defence to justify the targeted killing of *Qasem Soleimani* in January 2020, without providing specific intelligence to substantiate imminence, was criticised

¹²Application of the Convention on the Prevention and Punishment of the Crime of Genocide (South Africa v Israel) (Provisional Measures) [2024] ICJ (unreported, 26 January 2024), paras 54–85.

¹³The Caroline incident (1837): letter from Daniel Webster to Lord Ashburton, 6 August 1842, cited in Shaw (n 2) 1029–1030.

¹⁴Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda) [2005] ICJ Rep 168, para 147.

¹⁵Christine Gray, *International Law and the Use of Force* (4th edn, Oxford University Press 2018) 160–175.

¹⁶Thomas Franck, 'Terrorism and the Right of Self-Defense' (2001) 95(4) *American Journal of International Law* 839, 841.

by a UN Special Rapporteur as potentially violating Article 2(4).¹⁷ Dire Tladi has argued that a return to the strict letter of the Charter is necessary to prevent the erosion of the use-of-force prohibition.¹⁸

D. The Iranian Position and the Lawfulness of Reprisals

Article 51 of the UN Charter conditions collective self-defence on a request from the attacked state. The ICJ in *Nicaragua* established that Iran cannot invoke collective self-defence on behalf of non-state actors or occupied peoples without meeting the threshold requirements, namely that an armed attack has occurred against the state seeking assistance.¹⁹ Non-state groups, including Palestinian factions, are not themselves entitled to invoke Article 51 against a state under existing law.²⁰

Iran's direct missile attacks on Israeli territory in April 2024, characterised as reprisals for the Damascus consulate strike, are themselves unlawful. The ICJ held in *Gabčíkovo-Nagymaros* that reprisals involving force are impermissible under contemporary international law.²¹ As Brownlie argued, the prohibition on forcible reprisals is one of the clearest and most settled prohibitions in contemporary international law.²²

¹⁷Agnes Callamard (UN Special Rapporteur on Extrajudicial Executions), 'The Targeted Killing of General Soleimani: An Unlawful Act of War' (UN Doc A/HRC/44/38, 2020) para 53.

¹⁸Dire Tladi, 'The Norms Governing Unilateral Force: The Need for a Return to the Letter of the Charter' (2015) 58(2) *German Yearbook of International Law* 97, 111.

¹⁹*Nicaragua* (n 5) paras 195, 232.

²⁰*ibid*, para 195.

²¹*Gabčíkovo-Nagymaros Project* (Hungary v Slovakia) [1997] ICJ Rep 7, para 83.

²²Ian Brownlie, *International Law and the Use of Force by States* (Clarendon Press 1963) 219–221.

3.0 JUS IN BELLO: INTERNATIONAL HUMANITARIAN LAW

A. Applicable Legal Framework

Assuming an armed conflict exists, the law of armed conflict (IHL) applies to all parties. The principal treaty instruments are the four Geneva Conventions of 1949²³ and their Additional Protocols of 1977.²⁴ Customary IHL, authoritatively restated in the ICRC Study on Customary International Humanitarian Law, supplements treaty obligations and binds all states.²⁵ The classification of conflict as international or non-international is legally significant for the applicable rules, though the ICJ has confirmed that the fundamental humanitarian principles of IHL apply across both categories.²⁶

B. Distinction, Proportionality, and Precaution

The foundational principles of IHL are distinction, proportionality, and precaution. Distinction requires parties to differentiate between combatants and civilians, and between military objectives and civilian objects, at all times.²⁷ The principle of proportionality prohibits attacks

²³Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287, Common Art 3.

²⁴Protocol Additional to the Geneva Conventions of 12 August 1949 (Protocol I) (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 3.

²⁵ICRC, *Customary International Humanitarian Law* (Study) Jean-Marie Henckaerts and Louise Doswald-Beck (eds) (Cambridge University Press 2005) Rules 1–6.

²⁶Nicaragua (n 5) paras 218–219.

²⁷Additional Protocol I (n 24) Arts 48, 52(2).

expected to cause civilian casualties or damage excessive in relation to the anticipated military advantage.²⁸

The casualty figures in Gaza have prompted serious allegations of violations of distinction and proportionality by Israel. The ICJ, in its provisional measures order, found it plausible that Palestinian rights under the Genocide Convention were at risk of irreparable prejudice.²⁹ Marco Sassòli³⁰ has argued that in urban warfare the assessment of proportionality must account for the military advantage sought across the entire operation, and that the duty of precaution requires positive steps to minimise civilian harm, including warnings and the suspension of attacks when civilians are at unacceptable risk.³¹

C. Siege Warfare and Humanitarian Access

The imposition of a blockade on Gaza and restrictions on humanitarian supplies raise serious concerns under IHL. Article 54 of Additional Protocol I prohibits the starvation of civilians as a method of warfare.³² Article 23 of the Fourth Geneva Convention requires parties to allow the passage of medical and humanitarian supplies to civilian populations.³³ The ICJ expressly directed Israel to take immediate and effective

²⁸ibid, Art 51(5)(b).

²⁹South Africa v Israel (Provisional Measures) (n 12) paras 50–54.

³⁰Marco Sassòli, *International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare* (Edward Elgar 2019) 332–340.

³¹Marco Sassòli, 'The International Court of Justice and the Law of Armed Conflict' in Christian Tomuschat and others (eds), *The International Court of Justice and International Humanitarian Law* (Springer 2021) 43, 57.

³²Additional Protocol I (n 24) Art 54.

³³Geneva Convention IV (n 23) Art 23.

measures to ensure unimpeded provision of humanitarian assistance in its provisional measures order.³⁴

Failure to comply with IHL obligations on humanitarian access may engage individual criminal responsibility under Article 8 of the Rome Statute of the International Criminal Court.³⁵ The Prosecutor of the ICC applied in May 2024 for arrest warrants in connection with alleged war crimes and crimes against humanity in Gaza.³⁶

D. Targeted Killings and Drone Warfare

The use of targeted killings by Israel and the United States raises distinct questions under IHL and international human rights law. Nils Melzer³⁷ has argued that targeted killing is only lawful under IHL where the target is a combatant or a civilian directly participating in hostilities, the attack is militarily necessary, and civilian casualties are not excessive.³⁸ Outside armed conflict, lethal force is governed by the stricter necessity test applicable under the right to life in Article 6 of the ICCPR.³⁹

³⁴South Africa v Israel (Provisional Measures) (n 12) para 86(5).

³⁵Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3, Art 8.

³⁶ICC Office of the Prosecutor, 'Statement of ICC Prosecutor Karim A A Khan KC: Applications for Arrest Warrants in the Situation in the State of Palestine' (20 May 2024) <<https://www.icc-cpi.int>> accessed 16 May 2026.

³⁷Nils Melzer, 'Keeping the Balance between Military Necessity and Humanity' (2010) 42(831) *International Review of the Red Cross* 831, 855.

³⁸Nils Melzer, *Targeted Killing in International Law* (Oxford University Press 2008) 3–10.

³⁹International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, Art 6.

The killing of *Soleimani* on Iraqi territory raises questions of sovereignty and the extraterritorial application of the right to life. The UN Special Rapporteur concluded that insufficient evidence of imminence rendered the strike potentially unlawful.⁴⁰ Drone strikes conducted outside the territory of an ongoing armed conflict lack a legal basis under IHL and violate the right to life.⁴¹

4.0 STATE RESPONSIBILITY, ATTRIBUTION, AND PROXY FORCES

A. The Law of State Responsibility

The Articles on the Responsibility of States for Internationally Wrongful Acts (ARSIWA) 2001 codify the customary law of state responsibility. Under Article 1 ARSIWA, every internationally wrongful act of a state entails that state's international responsibility.⁴² An internationally wrongful act consists of conduct attributable to the state that constitutes a breach of an international obligation.⁴³ James Crawford has emphasised that the ARSIWA rules on attribution reflect long-established customary international law as confirmed in the jurisprudence of the ICJ.⁴⁴

⁴⁰Callamard (n 17) para 53.

⁴¹Mary Ellen O'Connell, 'Unlawful Killing with Combat Drones: A Case Study of Pakistan, 2004–2009' in Simon Bronitt and others (eds), *Shooting to Kill: Socio-Legal Perspectives on the Use of Lethal Force* (Hart Publishing 2012) 263, 280.

⁴²International Law Commission, 'Draft Articles on Responsibility of States for Internationally Wrongful Acts, with Commentaries' (2001) UN Doc A/56/10, reproduced in [2001] II (2) YILC 26 (ARSIWA), Art 1.

⁴³ARSIWA (n 42) Art 2.

⁴⁴James Crawford, *The International Law Commission's Articles on State Responsibility: Introduction, Text and Commentaries* (Cambridge University Press 2002) 77–80.

B. Attribution of Conduct of Non-State Armed Groups

The ICJ in *Nicaragua* established the "effective control" test: a state is responsible for the acts of non-state actors only if it exercised effective control over the specific operation in which the unlawful act was committed.⁴⁵ This high threshold was reaffirmed in *Bosnia v Serbia*.⁴⁶ In contrast, the ICTY in *Prosecutor v Tadić* applied the lower "overall control" test, under which a state need only exercise general direction and control over a group, without controlling each specific act.⁴⁷

The debate between these standards has direct implications for Iran's responsibility for the acts of Hezbollah, Hamas, and the Houthis. Antonio Cassese noted that the Tadić overall control test is more sensitive to the practical realities of state-sponsored violence.⁴⁸ The effective control test, while more protective of state autonomy, may leave victims of proxy wars without a remedy against the sponsoring state.⁴⁹

⁴⁵Nicaragua (n 5) para 115.

⁴⁶Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro) [2007] ICJ Rep 43, paras 399–406.

⁴⁷Prosecutor v Tadić (Appeals Chamber Judgment on the Law Applicable) IT-94-1-A (ICTY, 2 October 1995) para 131.

⁴⁸Antonio Cassese, 'The Nicaragua and Tadić Tests Revisited in Light of the ICJ Judgment on Genocide in Bosnia' (2007) 18(4) *European Journal of International Law* 649, 665.

⁴⁹James Crawford and Simon Olleson, 'The Nature and Forms of International Responsibility' in Malcolm Evans (ed), *International Law* (4th edn, Oxford University Press 2014) 443, 461.

C. Countermeasures and Their Limits

States that have suffered internationally wrongful acts may take countermeasures under Articles 22 and 49–54 ARSIWA.⁵⁰ However, countermeasures must not involve the use of force prohibited under the UN Charter, and must not violate peremptory norms.⁵¹ Brownlie confirmed that the prohibition on forcible reprisals is absolute.⁵² Iran's direct missile attacks on Israel, characterised as reprisals, therefore exceed the permissible scope of countermeasures, as the ICJ similarly found in the *Gabčíkovo-Nagymaros* case.⁵³

5.0 THE UNITED NATIONS SECURITY COUNCIL AND INSTITUTIONAL PARALYSIS

The UN Security Council bears primary responsibility for the maintenance of international peace and security under Article 24 of the UN Charter.⁵⁴ Yet the Council has been largely unable to act decisively in the Iran–Israel–US conflict due to the veto power of its permanent members. The UN General Assembly has adopted resolutions under the Uniting for Peace procedure, which permits the Assembly to act when the

⁵⁰ARSIWA (n 42) Arts 22, 49–54.

⁵¹*ibid*, Arts 50–51.

⁵²Brownlie (n 22) 219.

⁵³*Gabčíkovo-Nagymaros* (n 21) para 83. The Court held that for a countermeasure to be lawful it must be taken in response to a previous internationally wrongful act of another state, directed against that state, and proportionate to the injury. The use of armed force as a countermeasure is categorically excluded by Article 50(1)(a) ARSIWA.

⁵⁴UN Charter, Article 24(1) confers on the Security Council primary responsibility for the maintenance of international peace and security, and the parties agree that in carrying out its duties the Council acts on their behalf. The corresponding duty of all member states to accept and carry out the decisions of the Council is provided in Article 25.

Security Council fails to discharge its responsibilities due to lack of unanimity.⁵⁵

Martti Koskenniemi⁵⁶ has argued that international law is inherently political in its application, and that the paralysis of the Security Council reflects the deeper structural tension between sovereign equality and great power hegemony embedded in the Charter.⁵⁷ The repeated failure of the Council to enforce international law undermines the normative authority of the Charter framework.⁵⁸

South Africa's application against Israel under the Genocide Convention and related proceedings reflect the increasing juridification of the conflict.⁵⁹ However, the practical enforcement of ICJ decisions remains deeply problematic, as illustrated by Israel's compliance record with provisional measures orders. The absence of enforcement mechanisms

⁵⁵UN General Assembly, 'Uniting for Peace' (3 November 1950) UN Doc A/RES/377(V). The resolution provides that where the Security Council, because of lack of unanimity of its permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to member states for collective measures, including in case of a breach of the peace or act of aggression, the use of armed force where necessary.

⁵⁶Martti Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870–1960* (Cambridge University Press 2001) 494–509.

⁵⁷Martti Koskenniemi, 'The Politics of International Law' (1990) 1(1) *European Journal of International Law* 4, 7–8.

⁵⁸Christine Gray, 'The Use and Abuse of the International Court of Justice: Cases Concerning the Use of Force after Nicaragua' (2003) 14(5) *European Journal of International Law* 867, 882.

⁵⁹South Africa v Israel (Provisional Measures) (n 12).

remains the most significant structural weakness of the international legal order.

6.0 ACCOUNTABILITY AND THE PROSPECTS FOR LEGAL RESPONSIBILITY

The question of accountability operates at multiple levels: individual criminal responsibility before the ICC; state responsibility before the ICJ; and political accountability through the UN system.⁶⁰ The ICC Prosecutor's application for arrest warrants in May 2024, targeting both Israeli and Hamas leaders, represents a significant development.⁶¹

Antonio Cassese argued that individual criminal accountability is the most effective deterrent against atrocity crimes, but that its credibility depends on universal application.⁶² Michael Schmitt has similarly noted that the legitimacy of international criminal justice depends on consistent application across all parties and all conflicts.⁶³ The political resistance to

⁶⁰Rome Statute (n 35) Arts 5–8. The Court has jurisdiction over genocide (Art 6), crimes against humanity (Art 7), war crimes (Art 8), and the crime of aggression (Art 8bis). The Court's jurisdiction in the situation of the State of Palestine was established following the recognition of Palestine's accession to the Statute and confirmed by the Pre-Trial Chamber in its decision of 5 February 2021 (ICC-01/18).

⁶¹ICC Prosecutor (n 36). The Prosecutor applied for arrest warrants against Benjamin Netanyahu (Prime Minister of Israel), Yoav Gallant (Minister of Defence of Israel), Yahya Sinwar (head of Hamas in Gaza), Mohammed Deif (commander of the Izz ad-Din al-Qassam Brigades), and Ismail Haniyeh (head of the Hamas political bureau) on charges of war crimes and crimes against humanity.

⁶²Antonio Cassese, *International Criminal Law* (3rd edn, Oxford University Press 2013) 3–10.

⁶³Michael Schmitt, 'Targeted Killings and International Humanitarian Law: A Response' (2010) 2(1) *Harvard National Security Journal* 1, 4.

accountability for Western-aligned states risks undermining the integrity of the international criminal justice system.

7.0 CONCLUSION

The Iran–Israel–US conflict is a crucible for contemporary international law.⁶⁴ This article has demonstrated that all principal parties have engaged in conduct that is at minimum legally contestable and, in some instances, *prima facie* violative of international law. Iran's direct military strikes on Israeli territory and its support for proxy forces raise serious questions under Articles 2(4) and 51 of the UN Charter and the law of state responsibility. Israel's military campaign in Gaza raises acute concerns under the principles of distinction, proportionality, and the prohibition on starvation as a method of warfare.⁶⁵ The United States' drone strikes and targeted killings raise questions about the scope of self-defence and the extraterritorial application of the right to life.

The conflict also reveals structural deficiencies in the international legal order: the Security Council's effective paralysis, the lack of enforcement mechanisms for ICJ and ICC decisions, and the fragmentation of international law between competing interpretive frameworks.⁶⁶ These deficiencies reflect deeper tensions between sovereignty, power, and the rule of law in the international system.

The international legal order may not resolve the Iran–Israel–US conflict, but it remains the indispensable framework within which its human costs

⁶⁴Gray (n 3) 1.

⁶⁵Sassòli (n 30) 340.

⁶⁶Crawford (n 44) 80.

can be minimised, its perpetrators held to account, and the foundations of a durable peace constructed. Without reform of the veto and stronger enforcement mechanisms, international law risks becoming, as Koskenniemi warned, a gentle civilizer with persuasive but limited constraining power on state behaviour.⁶⁷

⁶⁷Koskenniemi (n 56) 509.