International Law and the Use of Force Beyond the UN

Self-Defence against Non-State Actors

Since the UN Charter came into effect in 1945, there have been numerous incidents in which one or more of the five major powers (at least arguably) violated the Charter’s Article 2(4) prohibition of force. Such incidents notwithstanding, this book demonstrates how the Charter restrains the major powers’ military actions. As an instrument of international order, the Charter provides a framework of legal rules restricting the use of armed force. Although these rules are subject to auto-interpretation by the major powers (as a consequence of their veto), they create an expectation of compliance that subjects the major powers’ military actions to international scrutiny. To reduce the likelihood of resistance from states threatened by such actions, major powers exercise prudential restraint, altering the manner and timing of their military actions in accordance with the legal arguments offered to justify those actions as consistent with the Charter and therefore not threatening to the existing international order. The book evaluates the efficacy of the Charter using large-N methods and five case studies: US intervention in the Caribbean, 1953–61; Anglo-French intervention in Egypt, 1956; Soviet intervention in Hungary, 1956; US–British intervention in Iraq, 1990–98; and US–British intervention in Iraq, 1999–2003. The book’s extensive focus on the two Iraq cases provides a basis for timely evaluation of the continuing salience and possible reforms of the UN Charter system. This book will be of much interest to students of security studies, the UN, international law, and international relations.

The Strategic Use of International Law by the United Nations Security
The definitive and authoritative international law text, updated to reflect key case law, international practice and treaty developments.

As shown in the case of Attila the Hun, and his thirst for power, property, and personal prestige, nation states throughout the world, particularly in Asia and Europe, have, since ancient times, been vulnerable to invasion by other nation states and bands of looters from outside their borders. Terrorism’s progress into the modern day has caused extreme concern among members of the international community, who now accept that it is like a cancer that refuses to localize itself within any single organ of the body, but seeks to spread its lethality throughout, even if that means destroying itself along with the host. The fight against terrorism is long and complex, but the end is known in advance. Terrorists are defending a lost cause, and their defeat is inevitable, and democracy, freedom, and diplomacy will triumph.

“The Professor Byers’s book goes to the heart of some of the most bitterly contested recent controversies about the International Rule of Law.” —Chris Patten, Chancellor of Oxford University

International law governing the use of military force has been the subject of intense public debate. Under what conditions is it appropriate, or necessary, for a country to use force when diplomacy has failed? Michael Byers, a widely known world expert on international law, weighs these issues in War Law. Byers examines the history of armed conflict and international law through a series of case studies of past conflicts, ranging from the 1837 Caroline Incident to the abuse of detainees by US forces at Abu Ghraib prison in Iraq. Byers explores the legal controversies that surrounded the 1999 and 2001 interventions in Kosovo and Afghanistan and the 2003 war in Iraq; the development of international humanitarian law from the 1859 Battle of Solferino to the present; and the role of war crimes tribunals and the International Criminal Court. He also considers the unique influence of the United States in the evolution of this extremely controversial area of international law. War Law is neither a textbook nor a treatise, but a fascinating account of a highly controversial topic that is necessary reading for fans of military history and general readers alike. “Should be read, and pondered, by those who are seriously concerned with the legacy we will leave to future generations.” —Noam Chomsky

From its earliest decisions in the 1790s, the US Supreme Court has used international law to help resolve major legal controversies. This book presents a comprehensive account of the Supreme Court’s use of international law from its inception to the present day. Addressing treaties, the direct application of customary international law and the use of international law as an interpretive tool, this book examines all the cases or lines of cases in which international law has played a material role, showing how the Court’s treatment of international law both changed and remained consistent over the period. Although there was substantial continuity in the Supreme Court’s international
law doctrine through the end of the nineteenth century, the past century has been a time of tremendous doctrinal change. Few aspects of the Court’s international law doctrine remain the same in the twenty-first century as they were two hundred years ago.

**The Power and Purpose of International Law**

The international law on the use of force is one of the oldest branches of international law. It is an area twinned with the emergence of international law as a concept in itself, and which sees law and politics collide. The number of armed conflicts is equal only to the number of methodological approaches used to describe them. Many violent encounters are well known. The Kosovo Crisis in 1999 and the US-led invasion of Iraq in 2003 spring easily to the minds of most scholars and academics, and gain extensive coverage in this text. Other conflicts, including the Belgian operation in Stanleyville, and the Ethiopian Intervention in Somalia, are often overlooked to our peril. Ruys and Corten’s expert-written text compares over sixty different instances of the use of cross border force since the adoption of the UN Charter in 1945, from all out warfare to hostile encounters between individual units, targeted killings, and hostage rescue operations, to ask a complex question. How much authority does the power of precedent really have in the law of the use of force?

**The Law on the Use of Force**

This law school casebook supplement helps in the understanding the history of international law. It compiles cases and materials on both the law governing the resort to armed force "jus ad bellum" and the law governing the conduct of force "jus in bello." Materials are arranged chronologically, starting with the 1648 Treaty of Westphalia, and proceeding up to 21st-century U.N. Security Council Resolutions on terrorism and weapons proliferation. While written specifically to complement International Law and the Use of Force, this compilation would be useful for any course in international law.

**Seeking Accountability for the Unlawful Use of Force**

The Law of International Conflict deals with three key principles of international law from a policy-oriented perspective that includes insights from various social sciences.

**International Law and the Use of Force**

The book offers insights on whether international law can shape the politics of the Security Council and conversely, the extent to which the latter contribute to the development of international law. By providing a systematic analysis of the quantity and quality of international legal instruments referred to in the text of resolutions, the book reconstructs patterns of the Security Council’s behavioural regularities and assesses them against the provisions of the United Nations Charter, which establishes its mandate. The analysis is divided into three periods – the origins and Cold War period, post-Cold War period and the twenty-first century – and assesses the resolutions passed in each period by thematic category. The book argues that while international law plays an important role in shaping the politics of the Security Council, the Council’s resolutions do not contribute significantly to the development of international law.
The Oxford Handbook of the Use of Force in International Law

Publicity in International Lawmaking

This book provides a comprehensive and detailed analysis of the nature, content and scope of the rules regulating the use of force in international law as they are contained in the United Nations Charter, customary international law and international jurisprudence. It examines these rules as they apply to developing and challenging circumstances such as the emergence of non-State actors, security risks, new technologies and moral considerations.

International Law

This book investigates the legitimacy deficits of two potentially conflicting legal systems, namely Public and Islamic international law. It discusses the challenges that Public international law is being presented within the context of its relationship with Islamic international law. It explores how best to overcome these challenges through a comparative examination of state practices on the use of force. It highlights the legal-political legacies that evolved surrounding the claims of the legitimacy of use of force by armed non-state actors, states, and regional organizations. This book offers a critical analysis of these legacies in line with the Islamic Shari‘a law, United Nations Charter, state practices, and customs. It concludes that the legitimacy question has reached a vantage point where it cannot be answered either by Islamic or Public international law as a mutually exclusive legal system. Instead, Public international law must take a coherent approach within the existing legal framework.

International Law in the U.S. Supreme Court

The Use of Force and International Law offers an authoritative overview of international law governing the resort to force. Looking through the prism of the contemporary challenges that this area of international law faces, including technology, sovereignty, actors, compliance and enforcement, this book addresses key aspects of international law in this area: the general breadth and scope of the prohibition of force, what is meant by 'force', the use of force through the UN and regional organisations, the use of force in peacekeeping operations, the right of self-defence and the customary limitations upon this right, forcible intervention in civil conflicts, the controversial doctrine of humanitarian intervention. Suitable for advanced undergraduate and postgraduate students, academics and practitioners, The Use of Force and International Law offers a contemporary, comprehensive and accessible treatment of the subject.

The Use of Force in International Law

International Law and the Use of Force

When the United Nations Charter was adopted in 1945, states established a legal ‘paradigm’ for regulating the recourse to armed force. In the years since then, however, significant developments have challenged the paradigm’s validity, causing a ‘paradigmatic shift’. International Law and the Use of Force traces this shift and explores its implications for contemporary international law and practice.

The Use of Force under International Law

The prohibition of the use of force in international law is one of the major achievements of international law in the past century. The attempt to outlaw war as a means of national policy and to establish a system of collective security after both World Wars resulted in the creation of the United Nations Charter, which remains a principal point of reference for the law on the use of force to this day. There have, however, been considerable challenges to the law on the prohibition of the use of force in international law over the past two decades. This Oxford Handbook is a comprehensive and authoritative study of the modern law on the use of force. Over seventy experts in the field offer a detailed analysis, and to an extent a restatement, of the law in this area. The Handbook reviews the status of the law on the use of force, and assesses what changes, if any, have occurred in consequence to recent developments. It offers cutting-edge and up-to-date scholarship on all major aspects of the prohibition of the use of force. The work is set in context by an extensive introductory section, reviewing the history of the subject, recent challenges, and addressing major conceptual approaches. Its second part addresses collective security, in particular the law and practice of the United Nations organs, and of regional organizations and arrangements. It then considers the substance of the prohibition of the use of force, and of the right to self-defence and associated doctrines. The next section is devoted to armed action undertaken on behalf of peoples and populations. This includes self-determination conflicts, resistance to armed occupation, and forcible humanitarian and pro-democratic action. The possibility of the revival of classical, expansive justifications for the use of force is then addressed. This is matched by a final section considering new security challenges and the emerging law in relation to them. Finally, the key arguments developed in the book are tied together in a substantive conclusion. The Handbook will be essential reading for scholars and students of international law and the use of force, and legal advisers to both government and NGOs.

Military Assistance on Request and the Use of Force

This book explores the large and controversial subject of the use of force in international law. It examines not only the use of force by states but also the role of the UN in peacekeeping and enforcement action, and the increasing role of regional organizations in the maintenance of international peace and security. The UN Charter framework is under challenge. Russia’s invasion of Georgia and intervention in Ukraine,
the USA’s military operations in Syria, and Saudi Arabia’s campaign to restore the
government of Yemen by force all raise questions about the law on intervention. The
‘war on terror’ that began after the 9/11 terrorist attacks on the USA has not been won. It
has spread far beyond Afghanistan: it has led to targeted killings in Pakistan, Somalia,
and Yemen, and to intervention against ISIS in Iraq and Syria. Is there an expanding
right of self-defence against non-state actors? Is the use of force effective? The
development of nuclear weapons by North Korea has reignited discussion about the
legality of pre-emptive self-defence. The NATO-led operation in Libya increased hopes
for the implementation of ‘responsibility to protect’, but it also provoked criticism for
exceeding the Security Council’s authorization of force because its outcome was regime
change. UN peacekeeping faces new challenges, especially with regard to the
protection of civilians, and UN forces have been given revolutionary mandates in
several African states. But the 2015 report Uniting Our Strengths reaffirmed that UN
peacekeeping is not suited to counter-terrorism or enforcement operations; the UN
should turn to regional organizations such as the African Union as first responders in
situations of ongoing armed conflict.

International Law and the Use of Force

This book presents a legal genealogy of biodiversity – of its strategic use before and
after the adoption of the Convention on Biological Diversity, 1993. This history of
‘genetic gold’ details how, with the aid of international law, the idea of biodiversity has
been instrumentalized towards political and economic aims. A study of the strategic
utility of biodiversity, rather than the utility of its protection under international law, the
book’s focus is not, therefore, on the sustainable or non-sustainable use of biodiversity
as a natural resource, but rather on its historical use as an intellectual resource.
Although biodiversity is still not being effectively conserved, nor sustainably used, the
Convention on Biological Diversity and its parent regime persists, now after several
decades of operation. This book provides the comprehensive answer to the question of
the convention’s continued existence. Drawing from environmental history, the
philosophy of science, political economy and development studies, this book will be of
interest to advanced undergraduate and postgraduate students in Environmental Law,
International Law, Environmental Studies, and Ecology.

The Use of Force and International Law

1. Law and Force; 2. The Prohibition of the Use of Force; 3. Invitation and Intervention:
Civil Wars and the Use of Force; 4. Self-defence; 5. Collective Self-defence; 6. The Use
of Force against Terrorism: a New War for a New Century; 7. The UN and the Use of
Force; 8.

International Law and the Use of Armed Force

International Law in the U.S. Legal System provides a wide-ranging overview of how
international law intersects with the domestic legal system of the United States, and
points out various unresolved issues and areas of controversy. Curtis Bradley explains
the structure of the U.S. legal system and the various separation of powers and
federalism considerations implicated by this structure, especially as these
considerations relate to the conduct of foreign affairs. Against this backdrop, he covers
all of the principal forms of international law: treaties, executive agreements, decisions and orders of international institutions, customary international law, and jus cogens norms. He also explores a number of issues that are implicated by the intersection of U.S. law and international law, such as treaty withdrawal, foreign sovereign immunity, international human rights litigation, war powers, extradition, and extraterritoriality. This book highlights recent decisions and events relating to the topic, including various actions taken during the Trump administration, while also taking into account relevant historical materials, including materials relating to the U.S. Constitutional founding. Written by one of the most cited international law scholars in the United States, the book is a resource for lawyers, law students, legal scholars, and judges from around the world.

International Law and the Use of Force against Terrorism

This volume of essays examines the development of political and legal thinking regarding the use of force in international relations. It provides an analysis of the rules on the use of force in the political, normative and factual contexts within which they apply and assesses their content and relevance in the light of new challenges such as terrorism, weapons of mass destruction and cyber-attacks. The volume begins with an overview of the ancient and medieval concepts of war and the use of force and then concentrates on the contemporary legal framework regulating the use of force as moulded by the United Nations Charter and state practice. In this regard it discusses specific issues such as the use of force by way of self-defence, armed reprisals, forcible reactions to terrorism, the use of force in the cyberspace, humanitarian intervention and the responsibility to protect. This collection of previously published classic research articles is of interest to scholars and students of international law and international relations as well as practitioners in international law.

International Law and the Use of Force

In countries such as Syria, Iraq, South Sudan, and Yemen, internationally recognized governments embroiled in protracted armed conflicts, and with very little control over their territory, have requested direct military assistance from other states. These requests are often accepted by the other states, despite the circumvention of the United Nations Security Council and extensive violation of international humanitarian law and human rights. In this book, Erika De Wet examines the authority entitled to extend a request for (or consent to) direct military assistance, as well as the type of situations during which such assistance may be requested, notably whether it may be requested during a civil war. Ultimately, De Wet addresses the question of if and to what extent the proliferation of military assistance on the request of a recognized government is changing the rules in international law applying to the use of force.

The Legitimacy of Use of Force in Public and Islamic International Law

This book explores the whole of the large and controversial subject of the use of force in international law; it examines not only the use of force by states but also the role of the UN in peacekeeping and enforcement action, and the growing importance of regional organizations in the maintenance of international peace and security. Since the publication of the second edition of International Law and the Use of Force the law in
this area has continued to undergo a fundamental reappraisal. Operation Enduring Freedom carries on against Al Qaida and the Taliban in Afghanistan six years after the terrorist attacks of 11 September 2001. Can this still be justified as self-defence in the 'war on terror'? Is there now a wide right of pre-emptive self-defence against armed attacks by non-state actors? The 2006 Israel/Lebanon conflict and the recent intervention of Ethiopia in Somalia raise questions about whether the 'war on terror' has brought major changes in the law on self-defence and on regime change. The 2003 invasion of Iraq gave rise to serious divisions between states as to the legality of this use of force and to talk of a crisis of collective security for the UN. In response the UN initiated major reports on the future of the Charter system; these rejected amendment of the Charter provisions on the use of force. They also rejected any right of pre-emptive self-defence. They advocated a 'responsibility to protect' in cases of genocide or massive violations of human rights; the events in Darfur show the practical difficulties with the implementation of such a duty.

**The Use of Biodiversity in International Law**

**International Law in the US Legal System**

This book analyzes the legality of the use of force by the US, the UK and their NATO allies against Afghanistan in 2001. The work challenges the main ground for resorting to force, namely, self-defence under Article 51 of the United Nations' Charter, by examining each element of Article 51 that ought to have been satisfied in order to legitimise the use of force. It also examines the wider context, including comparable Security Council resolutions in historic situations as well as modern instances where force has been used, such as against Iraq in 2003 and against Lebanon in 2006. As well as making the case against the legality of the use of force, the book addresses wider questions such as the meaning of 'terrorism' in international law, the changing nature of conflict in the twentieth and twenty-first centuries including the impact of non-state actors and an overview of terrorism trends as well as the evolution of limitations on the resort to force from the League of Nations through to 2001. The book concludes with some insight into the possible future implications for the use of force by states, particularly when force is purportedly justified on the grounds of self-defence.

**Terrorism, War and International Law**

Provides a multi-perspective study of the international law on self-defence against non-State actors.

**The Cambridge Companion to International Law**

One million people in the UK alone demonstrated against the 2003 invasion of Iraq. A crucial element of the opposition to the war was the lack of a clear legal basis. This is the first book to analyze the lawfulness of the use of force against Iraq on the basis of formerly classified material made public by the official UK inquiry into the war.

**International Law and the Use of Force**
The book presents the international laws on the use of force whilst demonstrating the unique insight a feminist analysis offers this central area of international law. The book highlights key conceptual barriers to the enhanced application of the law of the use of force, and develops international feminist method through rigorous engagement with the key writers in the field. The book looks at the key aspects of the UN Charter relevant to the use of force – Article 2(4), Article 51 and Chapter VII powers – as well as engaging with contemporary debates on the possibility of justified force to meet self-determination or humanitarian goals. The text also discusses the arguments in favour of the use of pre-emptive force and reflects on the role feminist legal theories can play in exposing the inconsistencies of contemporary arguments for justified force under the banner of the war on terror. Throughout the text state practice and institutional documentation are analysed, alongside key instances of the use of force. The book makes a genuine, urgently needed contribution to a central area of international law, demonstrating the capacity of feminist legal theories to enlarge our understanding of key international legal dilemmas.

**International Law and the Use of Force**

This book explores how best to recalibrate our understanding of international lawmaking through the lens of increased reporting and legal debate around covert and quasi-covert uses of force. Recent changes in practice and communication call for closer attention to be paid to the requirement of publicity for state practice, since they challenge the perception of the concepts 'public' and 'covert', and thus raise questions as to the impact that covert and quasi-covert acts do and should have on the development of international law. It is argued that, in order to qualify as such practice, acts must be both publicly known and acknowledged. The book further examines how state silence around covert and quasi-covert operations has opened up significant space for legal scholars and other experts to influence the development of international law.

**Sources of State Practice in International Law**

Public International Law offers a comprehensive understanding of international law as well as a fresh and highly accessible approach. While explaining the theory and development of international law, this work also examines how it functions in practice.

**Right V. Might**

The international law on the use of force is one of the oldest branches of international law. It is an area twinned with the emergence of international law as a concept in itself, and which sees law and politics collide. The number of armed conflicts is equal only to the number of methodological approaches used to describe them. Many violent encounters are well known. The Kosovo Crisis in 1999 and the US-led invasion of Iraq in 2003 spring easily to the minds of most scholars and academics, and gain extensive coverage in this text. Other conflicts, including the Belgian operation in Stanleyville, and the Ethiopian Intervention in Somalia, are often overlooked to our peril. Ruys and Corten's expert-written text compares over sixty different instances of the use of cross border force since the adoption of the UN Charter in 1945, from all out warfare to hostile
encounters between individual units, targeted killings, and hostage rescue operations, to ask a complex question. How much authority does the power of precedent really have in the law of the use of force?

**Self-Defense Against the Use of Force in International Law**

This intellectually rigorous introduction to international law encourages readers to engage with multiple aspects of the topic: as ‘law’ directing and shaping its subjects; as a technique for governing the world of states and beyond statehood; and as a framework within which several critical and constructivist projects are articulated. The articles situate international law in its historical and ideological context and examine core concepts such as sovereignty, jurisdiction and the state. Attention is also given to its operation within international institutions and in dispute settlement, and a separate section is devoted to international law’s ‘projects’: protecting human rights, eradicating poverty, the conservation of resources, the regulation of international trade and investment and the establishment of international order. The diverse group of contributors draws from disciplinary orientations ranging from positivism to postmodernism to ensure that this book is informed theoretically and politically, as well as grounded in practice.

**The Use of Force in International Law**

Analysis of how to prevent war and reinforce UN systems by imposing accountability on individuals and states for the unlawful use of force.

**International Law and the Use of Force by States**

**Regulating the Use of Force in International Law**

The international system is becoming increasingly legalized, with legal arguments and legal advisors playing an increasingly important part in the state policymaking process. Presenting a practice-oriented theory of compliance with international law, this book shows how international law affects the behavior of increasingly lawyerized states in an ever more legalized world. By highlighting the legalization of international legitimation and the lawyerization of policymaking as the new engines of compliance, the book’s analytical framework rethinks the relationship between state behavior and international law, and provides an empirical focus on security through the study of NATO’s military intervention in Yugoslavia in 1999 and the changes in the US detention and interrogation programs in the “War on Terror.” Relying on primary sources, the author demonstrates the effect of lawyerized decision making on international law compliance, reconstructing the strategies of (de-)legitimation used to show that international law is the hegemonic frame of reference in interstate debates. This book will be of interest to scholars of international relations, government studies, foreign service studies and lawyers employed in government work.

**Iraq and the Use of Force in International Law**
Public International Law

The world is poised for another important transition. The United States is dealing with the impact of the Afghan and Iraq wars, the use of torture and secret detention, Guantanamo, climate change, nuclear proliferation, weakened international institutions, and other issues related directly or indirectly to international law. The world needs an accurate account of the important role of international law and The Power and Purpose of International Law seeks to provide it. Mary Ellen O'Connell explains the purpose of international law and the power it has to achieve that purpose. International law supports order in the world and the attainment of humanity's fundamental goals of peace, prosperity, respect for human rights, and protection of the natural environment. These goals can best be realized through international law, which uniquely has the capacity to bind even a superpower of the world. By exploring the roots and history of international law, and by looking at specific events in the history of international law, this book demonstrates the why and the how of international law and its enforcement. It directly confronts the notion that international law is "powerless" and that working within the framework of international law is useless or counter-productive. As the world moves forward, it is critical that both leaders and their citizens understand the true power and purpose of international law and this book creates a valuable resource for them to aid their understanding. It uses a clear, compelling style to convey topical, informative and cutting-edge information to the reader.

War Law

"The description for this book, How to Do Things with International Law, will be forthcoming." --

How to Do Things with International Law

The author pursues, on historic lines, an estimation of the extent of legal prohibition of the use of force by states. He includes the deliberations and findings of political organs of the League of Nations and the United Nations, as well as a study of the quality of prohibition of force.

International Law and the Use of Force

Sources of State Practice in International Law is bibliography of treaty and diplomatic sources for important jurisdictions around the world. It also includes a summary for each jurisdiction of issues related to treaty succession and treaty implementation in municipal law.

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