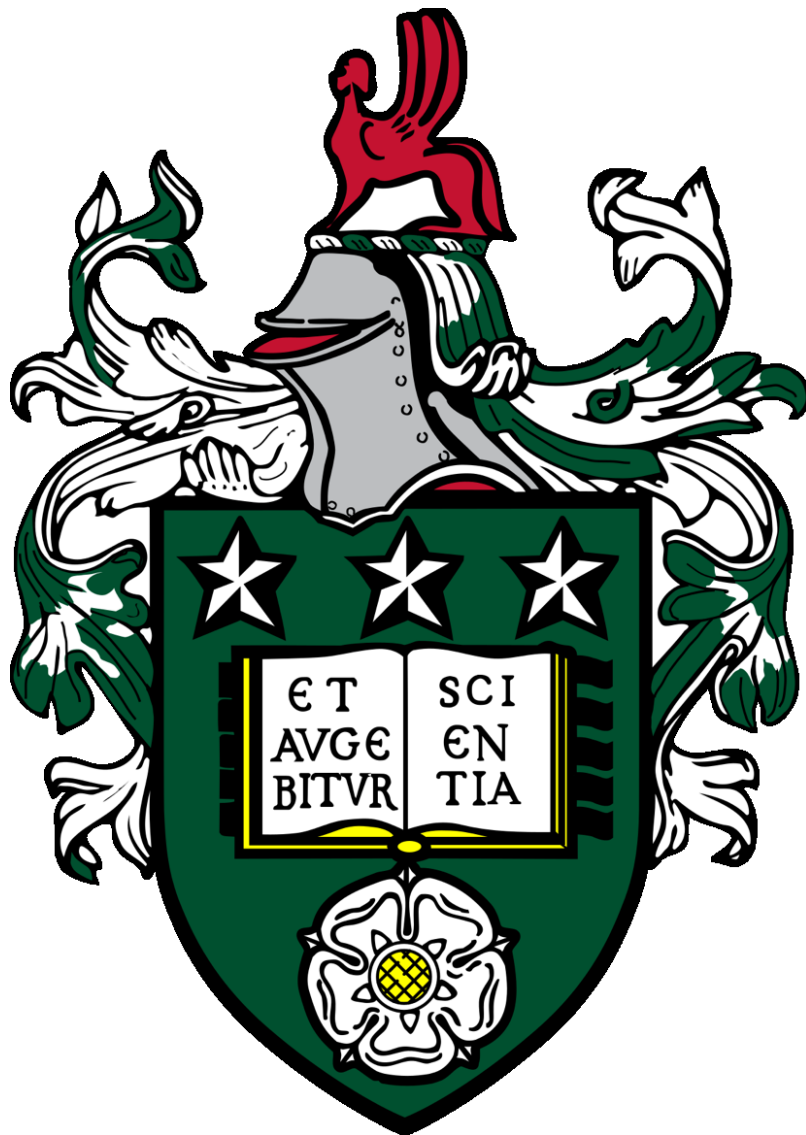


**HOW EFFECTIVE IS INTERNATIONAL LAW IN
PREVENTING THE USE OF FORCE IN THE ISRAEL-
PALESTINE CONFLICT? A LEGAL ANALYSIS OF ISRAEL'S
RESPONSE TO THE HAMAS ATTACKS ON OCTOBER 7TH
2023.**



****Please note this where supervision log should be inserted. It has been removed to anonymise dissertation****

****You can choose to insert acknowledgments here if you would like. This is not compulsory and have been removed in this instance to anonymise dissertation.****

ABSTRACT

On the October 7th 2023, Hamas launched rockets from the Gaza Strip into Israel. Israel then responded to these attacks by using force in Gaza, with the justification of self-defence under Article 51 of the Charter of the United Nations. The Charter of the United Nations does not clearly set out the limits of Article 51, encouraging Member States to use excessive force, whilst still claiming that they are exercising the right of self-defence. This dissertation aims to assess the effectiveness of international law in prohibiting the use of force in the Israel-Palestine conflict, as well as considering if Israel has breached international law in response to the initial Hamas attacks. This will be achieved by firstly laying down the international law that governs the use of force, in considering how international law is not effective in preventing the use of force, contrary to the aims of the United Nations. Then, a brief history of the Israel-Palestine conflict will be discussed, to contextualise the use of force in this conflict, as well as highlighting how self-defence can be used against Hamas as a non-State actor. Finally, it will be argued that Israel has breached international law under the UN Charter by using an excessive amount of force in response to the Hamas attacks. Furthermore, this dissertation posits that this excessive use of force has been achievable because of the weak and ineffective international law that is failing to prevent the use of force in the Israel-Palestine conflict.

TABLE OF CONTENTS

<i>TABLE OF INTERNATIONAL CASES</i>	7
<i>TABLE OF INTERNATIONAL INSTRUMENTS</i>	8
United Nations Instruments and Security Council Resolutions	8
<i>INTRODUCTION</i>	9
<i>CHAPTER ONE – INTERNATIONAL LEGAL FRAMEWORK ON THE USE OF FORCE</i>	11
Introduction.....	11
1.1 Chapter I UN Charter: Purposes and Principles.....	11
1.2 UNSC Authorisations – the Permanent Five Members’ Veto Powers	13
1.3 The Right of Self-Defence	14
Conclusion	16
<i>CHAPTER TWO – HISTORY OF THE ISRAEL-PALESTINE CONFLICT AND HAMAS AS A NON-STATE ACTOR</i>	17
Introduction.....	17
2.1 Overview of the Conflict Since the UN Partition Plan.....	17
2.2 Hamas as a Non-State Actor	20
2.3 Impact of 9/11 attacks on Non-State Actors in International Law	20
2.4 ICJ Advisory Opinion 2004 - Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory.....	22
Conclusion	25
<i>CHAPTER THREE – THE EFFECTIVENESS OF INTERNATIONAL LAW IN PREVENTING THE USE OF FORCE AND THE LEGALITY OF ISRAEL’S SELF-DEFENCE ARGUMENT AGAINST HAMAS.</i>	26
Introduction.....	26
3.1 The Effectiveness of Article 2(4) UN Charter	26
3.2 UNSC Authorisations	29

3.3 Self-defence Under International Law, and the Legality of Israel’s Use of Force	31
3.4 Conclusion	34
<i>CONCLUSION</i>.....	36
<i>BIBLIOGRAPHY</i>.....	38

**Some page numbers may have changed as all identifying features of dissertation have been removed.*

TABLE OF INTERNATIONAL CASES

Caroline case 1837 29 Brit & For St Papers

Case Concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. USA) 1986 ICJ Rep 14

Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Advisory Opinion) 2004 ICJ Rep 136

Legality of the Threat or Use of Nuclear Weapons (Advisory Opinion) 1996 ICJ Rep 226

TABLE OF INTERNATIONAL INSTRUMENTS

United Nations Instruments and Security Council Resolutions

Charter of the United Nations (adopted 24 October 1945) 1 UNTS XVI

UNSC Draft Res (20 February 2024) UN Doc S/2024/173

UNGA Res 181 (19 November 1947) A/RES/181(II)

UNSC Res 242 (22 November 1967) UN Doc S/RES/242

UNSC Res 338 (22 October 1973) UN Doc S/RES/338

UNSC Res 1368 (12 September 2001) UN Doc S/RES/1368

UNSC Res 1373 (28 September 2001) UN Doc S/RES/1373

INTRODUCTION

Following the atrocities of World War II, the Charter of the United Nations¹ (UN Charter) was implemented with the purpose of maintaining international peace and security.² Although the UN Charter is supposed to govern the use of force in international law, it is arguably not effectively achieving this. On the 7th of October 2023, Hamas fired rockets into Israel, causing the death of over 1200 Israelis – who were mainly citizens.³ Israel's forceful response to these attacks has been argued under Article 51 UN Charter, which allows for a Member of the UN to use self-defence if an armed attack has occurred against them. At first glance, Article 51 UN Charter assures UN Members that their State can be defended if they are subject to an armed attack. However, upon further scrutiny, it can arguably warrant UN Members to use an excessive amount of force.

The severity of the current conflict in Gaza accentuates the need for an effective international legal framework to govern the use of force internationally. Since the 7th of October 2023, over 30,000 Palestinian deaths have been reported.⁴ Without a ceasefire, this number is increasing. This doctrinal based legal research project⁵ aims to analyse the use of force under international law, in assessing how effective the UN Charter is in achieving its aims to maintain international peace and security. This will be conducted through collecting and analysing customary international law alongside the UN Charter as well as journal articles, UN documents and other written commentary. The focal point of this dissertation is a legal analysis on the use of force in the current conflict in Gaza. The legality and complex history behind the occupation of Gaza will not be discussed in this dissertation, although it is often difficult to explicitly separate this topic from the use of force in Gaza. This dissertation will consider the incidents of the conflict up until the 29th of February 2024; the circumstances of the conflict could change before this dissertation is submitted. Researching into this topic and the use of force is increasingly important with the rising death toll and humanitarian crisis in

¹ Charter of the United Nations (adopted 24 October 1945) 1 UNTS XVI.

² Art 1 UN Charter.

³ The Editors of Encyclopaedia Britannica, 'Israel-Hamas War' (*Britannica*) <www.britannica.com/place/Middle-East> accessed 9 March 2024.

⁴ Yolande Knell, 'More than 30,000 killed in Gaza, Hamas-run health ministry says' (*BBC News*, 29 February) <www.bbc.co.uk/news/world-middle-east-68430925> accessed 5 March 2024.

⁵ Ian Dobinson and Francis Johns, 'Qualitative Legal Research' in Mike McConville and Wing Hong Chui (eds), *Research Methods for Law* (Edinburgh University Press 2007) 19.

Gaza.⁶ It is alarming to see the impact that this ongoing conflict has on the lives of both Israelis and Palestinians, and how this is seemingly permissible under an ineffective international legal model.

The use of force and self-defence has been widely researched in academic literature about international law, including discussions that date back to other attacks in the Israel-Palestine conflict. Despite this, due to the recentness of the Hamas attacks, and Israel's counter attacks, there is a lack of research for evaluating the effectiveness of international law alongside the current conflict in Gaza. This dissertation will focus on the question of whether international law under the UN Charter is effective in preventing the use of force in the Israel-Palestine conflict. Furthermore, it will explore whether Israel's use of self-defence in response to the Hamas attacks breaches international law. This will be achieved by firstly discussing the applicable international law in Chapter one, considering the impact of the UN Charter. In Chapter one, there will be a primary focus on Articles 2(4), 24 and 51 UN Charter, which will include a discussion of the role of the United Nations Security Council (UNSC). Chapter two will go on to discuss a brief history of the Israel-Palestine conflict, alongside the applicability of international law to non-State actors, in assessing Hamas' stance in international law. Finally, Chapter three will discuss the effectiveness of international law in preventing the use of force in the current conflict in Gaza and how Israel has potentially breached international law. This dissertation will conclude that international law is not effective in preventing the use of force in the Israel-Palestine conflict. Additionally, it will be argued that Israel has breached international law through the excessive use of force in response to the Hamas attacks.

⁶ British Red Cross, 'Famine looms in Gaza: 1.1 million face catastrophic food insecurity' (*British Red Cross*, 5 April 2024) < www.redcross.org.uk/stories/disasters-and-emergencies/world/whats-happening-in-gaza-humanitarian-crisis-grows> accessed 9 April 2024.

CHAPTER ONE – INTERNATIONAL LEGAL FRAMEWORK ON THE USE OF FORCE

Introduction

The use of force in international law is governed by the UN Charter. This chapter will lay down the legal framework that regulates the use of force, before applying this to the ongoing conflict between Israel and Palestine in subsequent chapters. Firstly, the legal frameworks behind the use of force and the prohibitions on the use of force will be discussed (1.1). Then, the collective security system of the UNSC will be considered alongside the UNSC permanent five Members' veto powers (1.2). The influence that the UNSC has over the use of force in international law is deliberated alongside maintaining international peace and security in accordance with the aims of the UN.⁷ Lastly, the exceptions to the prohibition on the use of force will be considered, focusing on self-defence and the impact that this has in preventing the use of force internationally (1.3).

1.1 Chapter I UN Charter: Purposes and Principles

The *jus ad bellum* rules⁸ govern the conditions for States to resort to the use of force,⁹ with the requirement that States should possess just intentions when resorting to armed conflict, despite States' frequent concerns to fulfil their national interest through using force.¹⁰ Alongside these rules for a just war, the UN Charter was implemented with the intention to maintain international peace and security. This is furthered by the prohibition on the use of force under Article 2(4) UN Charter, where the Member States of the UN have agreed to refrain from using force, as this is inconsistent with the intentions and purposes of the UN. This prohibition on the use of force is 'one of the cornerstones of the modern international

⁷ The aims and intentions of the UN were established in Chapter I of The UN Charter.

⁸ These rules are incorporated in Art 2 UN Charter.

⁹ International Committee of The Red Cross 'What are jus ad bellum and jus in bello' (International Committee of The Red Cross 22 January 2015) <www.icrc.org/en/document/what-are-jus-ad-bellum-and-jus-bello-0%EF%BB%BF> accessed 2 December 2023.

¹⁰ Thomas Franck 'Who Killed Article 2(4)? or: Changing Norms Governing the Use of Force by States' (1970) 64(5) AJIL 809.

legal order',¹¹ and is therefore quintessential in conveying the UN Charter's aims to uphold international peace and security.

Article 2(4) UN Charter could insinuate that international law is effective in preventing the use of force, as it explicitly prohibits the use of force. Shaw argues that this prohibition of the use of force in Article 2(4) UN Charter extends to 'all States in the world community',¹² thus implying that this prohibition requirement stretches beyond the UN Members and applies to the wider world community. Shaw also emphasises how this provision is 'binding'¹³ upon States due to its standing in customary international law. This conveys how it is an obligation for States to refrain from using force, to act consistently with the UN Charter's intentions to maintain international peace and security. Shaw is demonstrating how international law is therefore prohibiting the use of force through the UN Charter. However, Shaw's argument is weakened as it overlooks how effective this 'binding'¹⁴ provision really is when being enforced by States. Hart demonstrates a similar view, acknowledging how although 'there is no basic rule providing general criteria of validity for the rules of international law',¹⁵ the rules still have a binding effect through treaties. Shaw and Hart argue that although there is an omission of a specific set of unambiguous laws governing the international framework, the UN Charter still has a binding force. This implies that States should refrain from using force, as this would be inconsistent with the UN's aim to maintain international peace and security.

Despite the initial prohibition on the use of force, Article 2(4) must be read alongside Articles 39 and 51 UN Charter to consider the provision's full extent.¹⁶ Article 39 UN Charter refers to the powers of the UNSC, that will subsequently be discussed (in section 1.2), allowing the UNSC to take the measures that are necessary to restore international peace and security. Furthermore, Article 51 UN Charter permits the use of force through self-defence. This brings additional complexities as 'those Articles contain a number of terms which, though related to one another, differ considerably in their meaning'.¹⁷ Because of the lack of clarity in the UN Charter regarding the terms that refer to the use of force, the rules prohibiting the use of force can be ambiguously interpreted. Glennon also recognises these 'deficiencies in the wording

¹¹ Bruno Simma, *The Charter of the United Nations: a commentary* (3rd edn, OUP 2012) 203.

¹² Malcolm Shaw, *International Law* (CUP 2021) 986.

¹³ *ibid.*

¹⁴ *ibid.*

¹⁵ H.L.A Hart, *The Concept of Law* (Clarendon Press 1994) 236.

¹⁶ Simma (n 11) 208.

¹⁷ *ibid.*

of the rules themselves',¹⁸ in the UN Charter. Glennon argues that this has culminated in the international community no longer viewing the UN Charter use of force prohibitions as a binding rule of international law.¹⁹ This insinuates that the lack of clarity regarding the prohibition on the use of force could therefore provide States with an argument to justify their use of force, due to the obscurity of the legal framework. Alternatively, it can also be considered that the 'restriction is to be interpreted broadly to encompass every kind of armed force in the international relations between States'.²⁰ This implies that the use of force prohibition needs to be flexible, to consider the vast possibilities of armed conflict. Overall, the ambiguity in the wording of the prohibition on the use of force invites arguments regarding its effectiveness. Therefore, although the UN Charter aims to promote international peace and security, it can be argued that the ambiguities around the prohibition on the use of force in the context of the entire UN Charter could be controversial.

1.2 UNSC Authorisations – the Permanent Five Members' Veto Powers

Article 24 UN Charter gives the UNSC the 'primary responsibility for the maintenance of international peace and security'. Chapter VII of the UN Charter allows the UNSC to act against any threats to peace, breaches of peace and acts of aggression. Article 39 UN Charter permits the UNSC to 'make recommendations or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security'. These collective security decisions are made through UNSC Resolutions, which require the approval of the permanent five Members:²¹ China, France, Russia, the United Kingdom, and the United States of America - the allied victors of World War II, who represented the 'power configurations prevailing in 1945'.²² The permanent five Members are each entitled to a veto when passing these resolutions to maintain or restore peace and security, in line with Article 1 UN Charter.

These veto powers from the permanent five Members of the UNSC are contentious. It is arguably controversial for these five Members to possess their veto powers, in allowing them

¹⁸ Michael Glennon, 'The Limitations of Traditional Rules and Institutions Relating to the Use of Force' in Marc Weller (ed), *The Oxford Handbook of the Use of Force in International Law* (OUP 2016) 79.

¹⁹ *ibid* 91.

²⁰ Simma (n 11) 233.

²¹ Art 27 UN Charter.

²² Jan Klabbers, *International Law* (CUP 2023) 94.

to potentially prioritise what is best for their nation's interest by using force.²³ Instead, their decisions should reflect the best interests of the entirety of the UN in maintaining international peace and security. This concern has recently been highlighted when Russia utilised their powers in vetoing a UNSC Resolution to withdraw troops from Ukrainian territory,²⁴ thus demonstrating the strength of the veto in potentially contradicting the aims of the UN Charter. However, Frederking and Patane praise the UNSC when arguing that these vetoes are 'influenced more by the intensity of a conflict than the veto Members' strategic links to the States involved in the conflict'.²⁵ This suggests that the five permanent Members are using their vetoes to avoid an excessive use of force, implying that the UNSC is successfully protecting the UN aims in preventing an unnecessary use of force, rather than vetoing a UNSC Resolution for their own nationalist motives. This elucidates that international law is effective in preventing the use of force, through the veto of the permanent five Members limiting the use of force when necessary. Contrastingly, Trahan argues that 'it is tremendously concerning that the veto is repeatedly rendering the Council paralysed by dysfunction'.²⁶ Trahan is highlighting how this veto power is contradicting the aims of the UN, because these vetoes can 'block action to prevent or stop atrocity crimes',²⁷ thus contradicting the purpose of the UN to promote international peace and security. Trahan's view is more convincing as the UNSC can become paralysed after an authorisation has been vetoed. Although the aim of the UNSC authorisations is to maintain or restore peace and security under Article 24 UN Charter, it is unsuccessful in doing so when the permanent Members use their veto powers – even if they claim that this veto is being used to avoid an intensity in conflict, rather than fulfilling their national interests. These criticisms highlight the controversy of the UNSC permanent Members' dominating veto powers, which will later be considered in the context of the Israel-Palestine conflict (in section 3.2).

1.3 The Right of Self-Defence

²³ Franck (n 10).

²⁴ United Nations News 'Russia vetoes Security Council resolution condemning attempted annexation of Ukraine regions' <<https://news.un.org/en/story/2022/09/1129102>> accessed 3/2/2024.

²⁵ Brian Frederking and Christopher Patane, 'Legitimacy and the UN Security Council Agenda' (CUP 2017) 50(2) PS: Political Science & Politics 347, 352.

²⁶ Jennifer Trahan, 'Vetoes and the UN Charter: the obligation to act in accordance with the "Purposes and Principles" of the United Nations' (2022) 9(2) Journal on the Use of Force and International Law 243, 275.

²⁷ *ibid* 254.

One of the exceptions to the prohibition on the use of force is the right of self-defence, which is laid down in Article 51 UN Charter. This preserves the right of States to defend themselves if they are subject to an ‘armed attack...until the Security Council has taken measures necessary to maintain international peace and security’.²⁸ Self-defence has previously been developed under customary international law, originating in the *Caroline* incident,²⁹ where it was discussed that the ‘necessity of that self-defence is instant, overwhelming, and leaving no choice of means, and no moment for deliberation’.³⁰ This established that self-defence should therefore be narrow and limited to when it is necessary for States to respond as they have no other choice, demonstrating the intention for international law to restrict this use of force under self-defence. These conditions were confirmed in the International Court of Justice’s (ICJ) Advisory Opinion on the *Legality of the Threat or Use of Nuclear Weapons 1996*.³¹ It was held that the conditions to satisfy self-defence included that the attack was a necessity, and that the State’s response was proportionate - these rules constituted customary international law.³² It has therefore been established through Article 51 UN Charter and customary international law³³ that the use of force is permitted through the exception of self-defence.

The rules established in the *Caroline* case regarding necessity and proportionality have not been addressed in the UN Charter. The implications of this omission are discussed by O’Meara who states that this ‘legal uncertainty poses a threat to the international legal order and runs the risk of undermining international peace and security’.³⁴ O’Meara is suggesting that these omissions are undermining the aims of the UN Charter and he is consequentially blaming the underdeveloped international law for allowing the use of force. Ronzitti reaffirms this when asserting that the ‘use of force is in effect a violation of the UN Charter’.³⁵ Ronzitti is confirming that the rules within the UN Charter are contradictory, aligning with Glennon’s

²⁸ Art 51 UN Charter.

²⁹ *Caroline case* 1837 29 Brit & For St Papers, an exchange between the UK and USA that established the limitations of self-defence.

³⁰ Letter from Daniel Webster to Lord Ashburton (6 Aug 1842), quoted in Anthony Aust, *Handbook of International Law* (CUP 2010) 209.

³¹ *Legality of the Threat or Use of Nuclear Weapons* (Advisory Opinion) 1996 ICJ Rep 226.

³² *ibid*, para 4.

³³ *Caroline* (n 29) and *Use of Nuclear Weapons* (n 31).

³⁴ Chris O’Meara, ‘Reconceptualising the right of self-defence against “imminent” armed attacks’ (2022) 9(2) *Journal on the Use of Force and International Law* 278, 279.

³⁵ Natalino Ronzitti, ‘The Expanding Law of Self-Defence’ (2006) 11(3) *Journal of Conflict and Security Law* 343, 344.

argument³⁶ that Article 51 UN Charter conflict with UN Charter's aims. Ronzitti also notes how 'self-defence has become the preferred excuse for States to justify their use of force'.³⁷ This implies that States are allowed to justify their use of force by using self-defence as an excuse. Additionally, it is argued that self-defence 'has therefore become the pivotal point upon which disputes concerning the lawfulness of the use of force in interstate relations usually concentrate'.³⁸ This conveys the confusion regarding the lawfulness of the use of force under this right of self-defence, resulting in many disputes as to what constitutes a lawful use of force under Article 51 UN Charter.

Conclusion

Overall, the legal framework that regulates the use of force in international law is ambiguous and is open to interpretation. Chapter I of the UN Charter laid down that the aims of the UN Charter are to maintain international peace and security. However, the UN Charter's subsequent provisions are seemingly contradictory. Article 2(4) UN Charter prohibits the use of force, in line with maintaining international peace and security. However, this authority is potentially weakened by the power of the permanent five UNSC Members, and their veto powers. Despite the aim of the UNSC to protect international peace and security,³⁹ the overwhelmingly powerful veto allows the permanent five UNSC Members to prioritise their State's interests, rather than promoting international peace and security across the entire UN. This is contrary to the aims of the UN Charter to maintain international peace and security. Additionally, Article 51 UN Charter explicitly permits the use of force, contradicting Article 2(4) UN Charter. The use of force under the right of self-defence evokes questions regarding how lawful the use of force is under international law, as the contradictory nature of the UN Charter does not clarify this ambiguity – thus culminating in a conflicted international legal framework.

³⁶ Glennon (n 18) 85.

³⁷ Ronzitti (n 35) 343.

³⁸ Simma (n 11) 1400.

³⁹ Art 24 UN Charter.

CHAPTER TWO – HISTORY OF THE ISRAEL-PALESTINE CONFLICT AND HAMAS AS A NON-STATE ACTOR

Introduction

After laying down the ambiguous international legal framework under the UN Charter in Chapter one, the applicability of this legal framework in the ongoing conflict between Israel and Palestine will now be considered. To establish if international law, under the UN Charter, can be enforced against Hamas as an independent militant group, Hamas' stance as a group in international law needs to be considered. To contextualise this analysis, the history of the Israel-Palestine conflict will be discussed first (2.1). Given the focus of the argument, a detailed historical account of this conflict cannot be provided. Instead, events from 1947 onwards will be considered – that is, only the events that took place after the creation of the UN Charter, starting off with the UN Partition Plan for Palestine. Then, Hamas' standing in international law will be discussed (2.2), which will determine how the legal framework previously laid down in Chapter one can be applied to them as an independent militant group. The impact of the 9/11 al Qaeda attacks on the USA will be contemplated alongside the international legal history of non-State actors (2.3). Furthermore, the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* case⁴⁰ will be discussed to highlight the contradictory nature of the response to the use of force against non-State actors (2.4). Overall, this analysis of the previous cases of non-State actors in international law will provide the foundation for an assessment of whether Israel can invoke the right of self-defence under Article 51 UN Charter against Hamas in the current conflict in Gaza.

2.1 Overview of the Conflict Since the UN Partition Plan

Despite the current focus on the Hamas attacks on the 7th of October 2023, the history of the conflict dates to the late 19th century, with similar self-defence arguments resurging in the current conflict. In 1947, there was increasing tensions between the Jewish and Arab

⁴⁰ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* 2004 ICJ Rep 136 (Advisory Opinion).

communities in Palestine. This resulted in the United Kingdom approaching the United Nations for a deliberation on the Palestine Question,⁴¹ with the hope of planning a peaceful future for Palestine. The United Nations General Assembly's solution to this question was to divide Palestine into two separate States: the Palestinian-Arab State and the Israeli-Jewish State.⁴² This partition plan did not in fact result in a peaceful future for Palestine,⁴³ and in 1948, the Jewish State declared its independence as the State of Israel. Israel then extended its control over Palestine during the Six Day War in 1967, when Israel gained control over the Gaza Strip and West Bank. The UNSC then passed Resolution 242,⁴⁴ which ordered Israel to withdraw from the occupied territories that they had gained control over in the Six Day War.⁴⁵ UNSC Resolution 242 was then reinforced in UNSC Resolution 338⁴⁶ during the October War of 1973, which called for an immediate ceasefire between both sides.⁴⁷

As a result of Israel's occupation, Palestinians responded with 'widespread riots, demonstrations, and boycotts',⁴⁸ which escalated to the Palestinian uprising of the First Intifada in 1987. This uprising resulted in the founding of Hamas: a Palestinian militant group that will be discussed in more detail in the next section of this Chapter. During agreements at the Oslo Accords, in 1993 and 1995, both Israel and Palestine recognised each other as individual groups that could live alongside one another, 'but more important was their official pledge towards peace and finding a lasting solution to end their dispute'.⁴⁹ For the first time, both Israel and Palestine acknowledged each other's rights to coexist,⁵⁰ conveying a promising start to peace talks. However, in 2000, Ariel Sharon's visit to the Islamic Holy site of the Haram al-Sharif was widely considered by both Israelis and Palestinians to be a 'dangerous provocation'.⁵¹ This provoking visit, after the previous peace talks in the 1990s at

⁴¹ James Gelvin, *The Israel-Palestine Conflict: A History* (4th edn, CUP 2021) 299.

⁴² United Nations General Assembly Resolution 181 (19 November 1947) A/RES/181(II).

⁴³ United Nations The Question of Palestine, 'Origins and Evolution of the Palestine Problem: 1917-1947 (Part I)' <www.un.org/unispal/history2/origins-and-evolution-of-the-palestine-problem/part-i-1917-1947/#Origins_and_Evolution_of_the_Palestine_Problem_1917-1947_Part_I> accessed 28 February 2024.

⁴⁴ UNSC Res 242 (22 November 1967) UN Doc S/RES/242.

⁴⁵ United Nations Peacemaker, 'Security Council Resolution 242: The Situation in the Middle East' <<https://peacemaker.un.org/middle-east-resolution242>> accessed 16 February 2024.

⁴⁶ UNSC Res 338 (22 October 1973) UN Doc S/RES/338.

⁴⁷ *ibid* para 2.

⁴⁸ Shannon Culverwell, 'Israel and Palestine- An analysis of the 2014 Israel-Gaza war from a genocidal perspective' (Senior Honors Projects, James Madison University 2017) 33.

⁴⁹ *ibid* 33-34.

⁵⁰ *ibid*.

⁵¹ Suzanne Goldenberg, 'Rioting as Sharon visits Islam holy site' (*The Guardian Jerusalem*, 29 September 2000) <www.theguardian.com/world/2000/sep/29/israel> accessed 12 Feb 2024.

the Oslo Accords, ‘reignited violence and provocation between Palestinians and Israelis’⁵² and set the stage for Second Intifada.⁵³

In 2003, Israel argued that because of a growing number of terrorist attacks by Hamas militants in the West Bank,⁵⁴ a wall was built with the aim of preventing further attacks. Contrastingly, Palestinians argued that Israel built this wall as an attempt to annex land in the West Bank, because the wall was built in Israel’s territory, as well as the occupied West Bank.⁵⁵ In the *Construction of a Wall* case, the ICJ held that Israel did not satisfy the requirement of Article 51 UN Charter to use self-defence.⁵⁶ Israel disregarded this disapproval of the wall, with the wall remaining in place to this day. This *Construction of a Wall* case will be discussed further in the context of non-State actors (in section 2.3), but it is crucial for considering the history of the conflict, as it highlights Israel’s previous self-defence arguments, which are also seen in the current conflict.

In 2006, Hamas won the majority of seats in the Palestinian elections.⁵⁷ Hamas then took over the Gaza Strip in 2007, with the aim of seeking ‘national liberation from Israeli occupation’.⁵⁸ Their electoral victory and seizure of the Gaza Strip angered Israel, who then responded to this news with a full blockade of the Gaza Strip, which included limiting the movement of persons.⁵⁹ This blockade is still in effect to this day. Subsequent peace talks then fell apart ‘due to rising tension between Israelis and Palestinians following the kidnaping and murder of three Israeli teens by Hamas’.⁶⁰ Israel’s response to these kidnappings and murders triggered the start of the 2014 Gaza War. The 2014 Gaza War ended with a ceasefire, which intended ‘to discuss a framework for a long-term truce between Israel and Hamas’.⁶¹ As seen with Hamas’ recent attacks in October 2023, it is evident that these long-term peace talks were ineffective. Throughout the history of the conflict, we can identify the same cycle repeating itself. This is a cycle of violence through the multitude of wars, blockades and attacks between Israel and Palestine since the implementation of the UN Partition Plan. It is a

⁵² Culverwell (n 48) 34.

⁵³ *ibid.*

⁵⁴ Christine Gray, ‘The ICJ Advisory Opinion on Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory’ (2004) 63(3) *The Cambridge Law Journal* 527.

⁵⁵ *ibid.*

⁵⁶ *Construction of a Wall* case (n 40) at 139.

⁵⁷ Menachem Klein, ‘Hamas in Power’ (2007) 61(3) *Middle East Journal* 442.

⁵⁸ *ibid.* at 444.

⁵⁹ Trude Strand, ‘Tightening the Noose: The Institutionalized Impoverishment of Gaza, 2005–2010’ (2014) 43(2) *Journal of Palestine Studies* 6, 12.

⁶⁰ Culverwell (n 48) 36.

⁶¹ Zuri Linetsky, ‘The Political Economy of a Lasting Israel-Hamas Truce’ (2014) 16(4) *Insight Turkey* 45.

continuous cycle where one side acts, and the other side retaliates, creating a ‘pattern of terrorist attacks and counterterror responses’.⁶²

Now that a brief history of the conflict has been presented, emphasising the ongoing cycle of conflict and retaliation between the two sides, the legality of the current conflict since October 2023 can be discussed. Accordingly, Hamas’ stance as an independent Palestinian militant group under international law must first be examined, to determine the applicability of international law to Hamas as an independent militant group.

2.2 Hamas as a Non-State Actor

Hamas, the Palestinian militant group, currently govern the Gaza Strip. This thesis will not consider the legality of the occupation of the Gaza Strip, nor will it consider competing claims to this land. Instead, the focus is on the status of Hamas under international law, to determine how Israel’s right of self-defence under Article 51 UN Charter can therefore be applicable against Hamas. The attribution test from *Nicaragua v USA*⁶³ asks us to consider whether a group’s actions can be attributed to a State, in order to invoke the right of self-defence.⁶⁴ This attribution test has since been developed to consider that ‘a State can be exposed to self-defence action if it is unwilling, or simply unable, to act in prevention of an actual or imminent armed attack perpetrated by non-State actors from its territory’.⁶⁵ However, Palestine is not widely recognised as a State, creating uncertainty as to whether Hamas can be linked to Palestine under the *Nicaragua* requirements for a group to be attributable to a State. Hamas will therefore be considered in this context as a non-State actor.

2.3 Impact of 9/11 attacks on Non-State Actors in International Law

Throughout the development of international law, there has long been tensions regarding the subject of non-State actors, and whether Article 51 UN Charter can be used against them;

⁶² William O’Brien, *Law and Morality in Israel’s War with the PLO* (Routledge 1991) 1.

⁶³ *Case Concerning Military and Paramilitary Activities in and against Nicaragua* (Nicaragua v. USA) 1986 ICJ Rep 14.

⁶⁴ Jutta Brunnée and Stephen Toope, ‘Self-defence against non-state actors: are powerful states willing but unable to change international law?’ (2018) 67(2) *International and Comparative Law Quarterly* 263, 268.

⁶⁵ *ibid* 264.

whilst they are not themselves an established State, they might have *connections* to a State. Following the al Qaeda attacks against the USA on the 11th of September 2001, it has become widely accepted that the use of force under Article 51 UN Charter can be used against non-State actors. This is important for considering whether Israel's self-defence arguments in the current conflict against Hamas are legally valid, since Hamas is not linked to an established State.

Following the September 11th attacks by al Qaeda, the UNSC adopted Resolutions 1368⁶⁶ and 1373.⁶⁷ UNSC Resolution 1368 condemned these attacks and considered 'any act of international terrorism as a threat to international peace and security'.⁶⁸ Furthermore, the UNSC called upon the international community 'to combat all forms of terrorism, in accordance with its responsibilities under the Charter of the UN'.⁶⁹ UNSC Resolution 1373 then reiterated this and demanded 'Member States to criminalize various actions associated with terrorism'.⁷⁰ The USA's response to these acts of terrorism by al Qaeda, as a non-State actor, was to invade Afghanistan. Although Afghanistan itself did not attack the USA, al Qaeda (under the Taliban) did. Following the attribution test from *Nicaragua*,⁷¹ the Taliban government of Afghanistan was deemed responsible for harbouring al Qaeda rebels and was consequently liable under the USA's right to self-defence under Article 51 UN Charter. Franck reinforces the idea that although al Qaeda is not a State, the attacks 'were classified by Security Council Resolution 1368 as a threat to international peace and security'.⁷² This highlights that as a result of the al Qaeda attacks, the USA was justified in using self-defence under Article 51 UN Charter, demonstrating how self-defence can be used against a non-State actor.

However, there is a significant difference between the 9/11 attacks and the current conflict with Hamas: al Qaeda could be linked to Afghanistan, which is an established State, whereas

⁶⁶ UNSC Res 1368 (12 September 2001) UN Doc S/RES/1368.

⁶⁷ UNSC Res 1373 (28 September 2001) UN Doc S/RES/1373.

⁶⁸ United Nations Digital Library, 'Resolution 1368 (2001) / adopted by the Security Council at its 4370th meeting, on 12 September 2001' <<https://digitallibrary.un.org/record/448051?ln=en>> accessed 16 February 2024.

⁶⁹ *ibid.*

⁷⁰ United Nations Security Council, Counter-Terrorism Committee Executive Directorate (CTED), 'Legal issues' <www.un.org/securitycouncil/ctc/content/legal-issues#:~:text=The%20adoption%20of%20Security%20Council,preparation%2C%20or%20perpetration%20of%20such> accessed 16 February 2024.

⁷¹ *Nicaragua* (n 63).

⁷² Thomas Franck, 'Terrorism and the Right of Self-Defense' (2001) 95(4) AJIL 839, 840.

Palestine is not. Murphy dismisses this argument when noting that ‘no language in these resolutions indicates that the Security Council believes that terrorist acts must first be imputed to a state so as to trigger the right of self-defense under Article 51’.⁷³ This implies that following UNSC Resolutions 1368 and 1373, self-defence can be used against non-State actors – suggesting that Israel is acting within its rights under Article 51 UN Charter by responding to the October 2023 Hamas attacks with self-defence. Furthermore, Henderson argues that States can invoke their right of self-defence ‘to protect themselves, regardless of the identity of the perpetrators of the attack’,⁷⁴ because ‘non-state actors do not reside on the high seas or outer space, but instead upon the territory of another state’.⁷⁵ From this, we can understand that States should therefore be entitled to use self-defence, whether the attacker is a State or non-State actor. However, Henderson’s argument is weakened as it omits what would happen if these non-State actors did not reside on the territory of a recognised State. Hamas administrates the Gaza Strip, which is not legally attributable to a State. This ambiguity highlights the difference between the USA’s response to al Qaeda attacks, compared to Israel’s response to Hamas attacks. However, regardless of where Hamas is based, Israel should be entitled to use their right of self-defence in response to the group’s attacks. According to Bethlehem, since the passing of UNSC Resolutions 1368 and 1373, it is ‘reasonably clear and accepted that states have a right of self-defense against attacks by nonstate actors’.⁷⁶ Thus, following the influential authority of UNSC Resolutions 1368 and 1373, Article 51 UN Charter is applicable for Israel to enforce against Hamas as a non-State actor.

2.4 ICJ Advisory Opinion 2004 - *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*

In the *Construction of a Wall* case, the ICJ took a contrary position to UNSC Resolutions 1368 and 1373. It was held that Article 51 UN Charter ‘recognizes the existence of an inherent right of self-defence in the case of an armed attack by one State against another

⁷³ Sean Murphy, ‘Self-defense and the Israeli Wall Advisory Opinion: An Ipse Dixit from the ICJ?’ (2005) 99(1) AJIL 62, 67.

⁷⁴ Christian Henderson, *The Use of Force and International Law* (CUP 2018) 211.

⁷⁵ *ibid.*

⁷⁶ Daniel Bethlehem, ‘Self-Defense against an Imminent Armed Attack by Nonstate Actors’ (2012) 106 AJIL 770, 774.

State'.⁷⁷ The ICJ insinuated that self-defence can only be used between States (this was not explicitly stated), and therefore suggested that this right of self-defence under Article 51 UN Charter cannot be invoked against non-State actors, including terrorist groups. Israel's construction of a wall covering areas of the West Bank to prevent terrorism was therefore not excused by Article 51 UN Charter. Murphy criticises this ICJ Opinion when arguing that the Court's 'lack of analytical reasoning... reflects an *ipse dixit* approach to judicial reasoning; the Court apparently expects others to accept an important interpretation of the law and facts simply because the Court says it is so'.⁷⁸ In sum, the ICJ did not provide a satisfactory reasoning as to why Article 51 UN Charter should only be used between States. This weakens the ICJ's argument that Israel was not entitled to the right of self-defence in the *Construction of a Wall* case, as the ICJ did not clarify who or what Article 51 UN Charter is applicable to. Alternatively, Wilmschurst argues that the ICJ Opinion 'should not be read as suggesting that the use of force in self-defence is not permissible unless the armed attack is by a State'.⁷⁹ Wilmschurst is conveying that the ICJ did not intend to narrowly interpret Article 51 UN Charter to restrict self-defence to attacks from a State. However, Wilmschurst's argument overlooks how the ICJ stated that self-defence is applicable in cases of an 'armed attack by one State against another State'.⁸⁰ The ICJ Opinion did not mention Article 51 UN Charter being applicable to non-State actors. Furthermore, Murphy notes that the ICJ Opinion is silent on the issue of 'why Article 51 was restricted to armed attacks by states'.⁸¹ Again, this diminishes Wilmschurst's argument that the ICJ was not restricting the use of force only for attacks made by States. The ICJ did not explicitly say that Article 51 UN Charter is restricted to attacks from a State, but the ICJ Opinion is too ambiguous to say with certainty that the ICJ did not intend that 'the use of force in self-defence is not permissible unless the armed attack is by a State'.⁸² Resultingly, this author finds Murphy's argument more convincing, as Murphy picks up on the specific wording of the ICJ Opinion in limiting the use of self-defence for States, whereas Wilmschurst overlooks this. These conflicting opinions between Murphy and Wilmschurst convey the ambiguity of the ICJ Opinion for the *Construction of a Wall* case, therefore demonstrating how problematic this ICJ Opinion is in deciding whether Article 51 UN Charter is restricted to States.

⁷⁷ *Construction of a wall* case (n 40) at 139.

⁷⁸ Murphy (n 73) 62-63.

⁷⁹ Elizabeth Wilmschurst, 'The Chatham House Principles of International Law on the Use of Force in Self-Defence' (2006) 55(4) *International and Comparative Law Quarterly* 963, 969.

⁸⁰ *Construction of a wall* case (n 40) at 139.

⁸¹ Murphy (n 73) 63.

⁸² Wilmschurst (n 79).

On the other hand, Chinkin and Kaldor emphasise that although Article 51 UN Charter does not specifically declare that self-defence is only applicable for attacks between States, ‘the UN Charter regulates relations between sovereign states and is predicated upon that basis’.⁸³ This could explain why the ICJ did not disclose their reasoning behind limiting Article 51 UN Charter, by excluding its applicability to non-State actors, because the UN Charter only covers the ‘relations between sovereign states’.⁸⁴ However, this is a limiting perspective, because the UN Charter was created to maintain *international* peace and security. Therefore, the UN Charter arguably considers threatening situations that could occur across the world, rather than limiting the impact of provisions just for specific sovereign States. Lady Higgins expands upon this argument when noting that there is ‘nothing in the text of Article 51 that thus stipulates that self-defence is available only when an armed attack is made by a State’.⁸⁵ Lady Higgins has diminished the ICJ’s Opinion, by simply analysing the wording of Article 51 UN Charter, which is something that the ICJ has omitted to do in this Opinion. Overall, despite the ICJ stating that Israel cannot enforce their right of self-defence in the *Construction of a Wall* case, they did not expand upon their suggestion that this right under Article 51 UN Charter is only applicable against States. The weakness of this ICJ Opinion is ultimately demonstrated by the fact that the wall remains in place to this day. This is because the ICJ’s Opinions are advisory, and thus non-binding – conveying a weakness in international law’s capacity to efficiently govern the use of force.

The controversy regarding non-State actors in international law highlights the contradictory nature of international law, which has led to an ineffective governing of the use of force in international law. UNSC Resolutions 1368 and 1373 stipulated that self-defence can be used against a non-State actor, whereas the subsequent ICJ Advisory Opinion in the *Construction of a Wall* case implied the opposite. Due to the ambiguity and weakness of the ICJ’s Opinion in the *Construction of a Wall* case, and the more authoritative UNSC Resolutions 1368 and 1373, this thesis is continuing the basis that self-defence can be used against non-State actors.

⁸³ Chinkin C and Kaldor M, *International Law and New Wars* (CUP 2017) 158.

⁸⁴ *ibid.*

⁸⁵ Rosalyn Higgins, *Problems and Process: International Law and How We Use It* (OUP 1994) 250.

Conclusion

There has been a long conflict between Israel and Palestine, which has only intensified since the failure of the UN Partition Plan, with ongoing attacks demonstrating how Israel and Palestine are not living alongside each other in peace. The cycle of harmful responses and retaliations between both parties involved in the conflict continues. We have just seen this cycle start again on the 7th of October 2023, contributing towards further attacks and a growing animosity between the two sides, which has been seen for years after the initial UN Partition Plan. This thesis will argue that self-defence can be used against a non-State actor, due to the weakened authority of the ICJ Opinion in the *Construction of a Wall* case. Additionally, UNSC Resolutions 1368 and 1373 have permitted the use of self-defence against non-State actors. However, these UNSC Resolutions were referring to a non-State actor who was attributable to a recognised State, whereas Hamas is not linked to any established State under international law, as Palestine is not widely recognised as a State. Nonetheless, Israel is within its rights, under the inherent right of self-defence under Article 51 UN Charter, to respond with the use of force against the Hamas attacks. Whether Israel's overall actions in response to these attacks breach international law will be discussed in the subsequent chapter.

CHAPTER THREE – THE EFFECTIVENESS OF INTERNATIONAL LAW IN PREVENTING THE USE OF FORCE AND THE LEGALITY OF ISRAEL’S SELF-DEFENCE ARGUMENT AGAINST HAMAS.

Introduction

Now that the applicability of international law against Hamas as a non-State actor has been established in Chapter two, the legality of Israel’s current use of force can be discussed. This Chapter will go over the international law that was laid down in Chapter one, in discussing how effective UN Charter Articles 2(4), 24 and 51 are in prohibiting the use of force. This will be contextually analysed alongside the current conflict in the Gaza Strip between Hamas and Israel. As seen in the ongoing conflicts between Hamas and Israel, it could be argued that the UN Charter is not currently governing this use of force in an effective manner. This author argues that international law is not effective in preventing the use of force. This line of argument will be achieved by following the same structure as Chapter one, starting with evaluating the effectiveness of UN Article 2(4) (3.1). Next, the influence of the UNSC in international law will be noted, focusing on Meeting 9952 of the UNSC on the 20th of February 2024 that discussed the Palestine question (3.2). Finally, the impact of self-defence under Article 51 UN Charter will be explored. Israel’s self-defence argument will be analysed with consideration of their actions in this current conflict, discussing whether Israel has surpassed the limits of self-defence under international law, thus potentially breaching international law (3.3). This will allow for an analysis of how effective international law is in preventing the use of force, and it will be demonstrated how the insubstantial legal framework of the UN Charter blindsides the contemporary, and ongoing, conflicts between Israel and Palestine.

3.1 The Effectiveness of Article 2(4) UN Charter

As seen by the use of force in the ongoing conflict between Palestine and Israel, it can be argued that the prohibition against the use of force under Article 2(4) UN Charter is not effective. However, this prohibition needs to be considered within the framework laid down

in Article 51 UN Charter,⁸⁶ especially because Israel's attacks in the Gaza Strip are defended under Article 51 UN Charter.⁸⁷ Franck posits that the UN Charter possesses a plethora of ambiguities through exemptions that 'open the rules to deadly erosion'.⁸⁸ Franck is highlighting how the exemption to the prohibition of the use of force under Article 51 UN Charter is causing a 'deadly erosion'⁸⁹ of the international laws that supposedly govern the use of force. This has resulted in an international use of force, that the rules of the UN Charter cannot effectively govern. Franck blames this excessive use of force on the States that want to 'pursue their national interest through the use of force'.⁹⁰ This conveys how States are potentially manipulating the wording of the UN Charter provisions to advance their national interests. For example, Israel's current actions in the conflict in Gaza arguably reflect the advancement of their national interest. The self-defence argument has been used to defend Israel's counter attacks after the 7th of October 2023 Hamas attacks. However, after Israel's long occupation of the Gaza Strip since the Six Day War in 1967, alongside causing 30,000 fatalities⁹¹ in this current conflict, it is more convincing to assume that Israel is hiding behind the self-defence arguments to advance their nationalist interests. Israel has achieved this through manipulating the weakened wording of Article 2(4) UN Charter, which has carefully been interpreted alongside Article 51 UN Charter to permit their use of force under international law – enabling Israel to pursue their nationalist interests.

Henkin's arguments weaken this theory that Article 2(4) UN Charter is not effective, alternatively claiming that there are 'common misimpressions'⁹² regarding Article 2(4) UN Charter, which has provided 'a norm of behaviour and has deterred violations'.⁹³ Henkin is implying that Article 2(4) UN Charter has successfully deterred States from violating the principles laid down in the UN Charter. Additionally, Henkin argues that the national interests that might ignite State's use of force 'no longer underlie every political calculation of every nation'.⁹⁴ This could insinuate that Israel's political calculations are not summoned from

⁸⁶ Franck (n 72) 839.

⁸⁷ Tal Becker, Press release opening statement of MFA Legal Advisor Dr. Tal Becker at the International Court of Justice proceedings (Proceedings instituted by South Africa against the State of Israel on 29 December 2023) <www.gov.il/en/departments/news/opening-statement-of-mfa-legal-advisor-tal-becker-at-icj-proceedings-12-jan-2024> accessed 26 February 2024.

⁸⁸ Franck (n 10).

⁸⁹ *ibid.*

⁹⁰ *ibid.*

⁹¹ Knell (n 4).

⁹² Louis Henkin, 'The reports of the Death of Article 2(4) are Greatly Exaggerated' (1971) 65 AJIL 544.

⁹³ *ibid.*

⁹⁴ *ibid.*

national advancement interests, but they are instead defending their State against current and potential future attacks from Hamas. Despite this, Henkin goes on to argue that Article 2(4) UN Charter ‘was written by practical men who knew all about national interest’.⁹⁵ Therefore, even if the promotion of national interest does not necessarily underlie States’ political calculations, States can still rely on international law that was carefully drafted by those who intended to promote their national interests. This has resulted in a provision that is weak in preventing the use of force. Because even if Article 2(4) UN Charter has acted as a deterrent, it was carefully drafted alongside Article 51 UN Charter to allow States to use force, to potentially advance their national interests.

The inadequacy of the UN Charter contributes to the ineffectiveness of international law. Glennon critiques the effectiveness of the UN Charter when arguing that what Article 2(4) UN Charter forbids is ‘baffling’,⁹⁶ which leads to ‘inconsistent values’,⁹⁷ that leaves ‘one to conclude that use of force is forbidden, permitted, or perhaps even encouraged’.⁹⁸ Glennon’s analysis of the UN Charter corresponds with this author’s argument that international law is not effective in prohibiting the use of force. Glennon successfully highlights how the ambiguities within the rules regarding the use of force have culminated in uncertainty regarding whether the use of force is strictly prohibited or not. Similarly, Henkin notes that ‘almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time.’⁹⁹ Henkin’s emphasis on ‘almost’,¹⁰⁰ conveys that nations do not always follow these obligations to refrain from using force under Article 2(4) UN Charter. This successfully demonstrates how international law is therefore not always effective in preventing the use of force.

Therefore, the contradictory nature of Articles 2(4) and 51 UN Charter has resulted in an uncertain international legal framework. The UN Charter was created with the aims of maintaining international peace and security, embodied by the prohibition of the use of force under Article 2(4) UN Charter. However, States can clearly avoid this obligation, turning to the use of force that is justifiable as self-defence under Article 51 UN Charter. Because of

⁹⁵ *ibid* 547.

⁹⁶ Glennon (n 18) 85.

⁹⁷ *ibid*.

⁹⁸ *ibid*.

⁹⁹ Louis Henkin, *How Nations Behave: Law and Foreign Policy* [1979] Columbia University Press 47.

¹⁰⁰ *ibid*.

these conflicting UN Charter Articles, States have been able to utilise self-defence arguments in defending their use of force. Article 2(4) is thus not effective in prohibiting the use of force under international law, due to this prohibition being read alongside Article 51 UN Charter. The UN Charter is therefore not achieving its overall aims of maintaining international peace, because it was drafted by ‘practical men who knew all about national interest’.¹⁰¹ This allows for States’ use of force to be hidden behind self-defence justifications. States can seemingly utilise the provisions of the UN Charter to promote their national interests by using force, thus conveying how international law is not effective in preventing the use of force.

3.2 UNSC Authorisations

The overarching concerns of the UNSC permanent five Members and their veto powers has been laid down in section 1.2 of this dissertation. The criticisms relating to the UNSC will now be discussed in further detail, alongside applying these concerns to the current conflict between Israel and Palestine.

A current disconcertment in the conflict in Gaza is that the UNSC is yet to pass a Resolution for a ceasefire.¹⁰² Under Article 24 UN Charter, this body of the United Nations is responsible for maintaining international peace and security. However, the UNSC are currently unable to pass a Resolution, thus conveying how the UNSC are not fulfilling their duty under international law – to maintain international peace and security.¹⁰³ Franck criticises the UNSC when stating that ‘unfortunately these ambitious projects were founded on an invalid premise: that the Security Council would be able to discharge its responsibility as the United Nations’ principal organ for world peacekeeping’.¹⁰⁴ Franck is referring to the ‘ambitious projects’¹⁰⁵ under Chapter VII UN Charter, inferring that it was ambitious for the UN to assume that the UNSC would be able to collectively work together to maintain international peace and security. Furthermore, O’Brien asks us to consider how international law ‘offers no remedy to the victim of terrorism except self-help measures – which are then denounced if taken’.¹⁰⁶ This highlights how there is no explicit international law on how Israel should react to the

¹⁰¹ Louis Henkin (n 92) 547.

¹⁰² This dissertation is only considering UNSC Resolutions up until the 29th of February 2024.

¹⁰³ Under Art 24 UN Charter.

¹⁰⁴ Franck (n 10) 810.

¹⁰⁵ *ibid.*

¹⁰⁶ O’Brien (n 62) 317.

Hamas attacks. Therefore, Israel have used the ‘self-help measures’¹⁰⁷ under Article 51 UN Charter, by using self-defence in the Gaza Strip. Due to the lack of international law under the UN Charter in providing a solution to States that have been attacked, it is ambiguous to determine how States can legally respond. This demonstrates how international law is not effective in preventing the use of force due to the lack of international law governing the use of force in response to an attack. Alongside this, the UNSC is unable to ‘discharge its responsibility’¹⁰⁸ for maintaining international peace, as demonstrated through the lack of UNSC Resolution for a ceasefire in Gaza.

The severity of the need for a ceasefire in Gaza was seen after the UN Secretary General wrote a letter to the President of the UNSC.¹⁰⁹ The UN Secretary General invoked Article 99 UN Charter, which allows for a letter to be written to the UNSC President, expressing their concerns regarding a threat to international peace and security. The UN Secretary General’s letter highlighted the failure of the health care system in Gaza and expressed that ‘nowhere is safe in Gaza’.¹¹⁰ Article 99 UN Charter has not been enforced since 1989.¹¹¹ It is not an Article that is used lightly, demonstrating the urgency behind the need for a ceasefire. Despite this, on the 20th of February 2024, the USA vetoed another UNSC Resolution¹¹² that called for a ceasefire. The USA’s justification for this veto was made by UNSC Ambassador Linda Thomas-Greenfield, who claimed that the USA ‘cannot support a resolution that would put sensitive negotiations in jeopardy’.¹¹³ The negotiations referred to by Linda Thomas-Greenfield were contemporary negotiations for the release of hostages. Despite the USA’s justifications for their veto, the postponement of a ceasefire in Gaza is detrimental. As of the 29th of February 2024, the casualties in Gaza stand at 30,000.¹¹⁴ With the USA using their overpowering veto, the conflict continues. It is highly concerning that any of the five

¹⁰⁷ *ibid.*

¹⁰⁸ Franck (n 10) 810.

¹⁰⁹ United Nations Israel-Gaza Crisis, ‘Letter by the Secretary-General to the President of Security Council invoking Article 99 of the United Nations Charter’ (6 December 2023) <www.un.org/en/situation-in-occupied-palestine-and-israel/sg-sc-article99-06-dec-2023> accessed 5 March 2024.

¹¹⁰ *ibid.*

¹¹¹ Article 99 UN Charter was last enforced in 1989, when Secretary General Javier Pérez de Cuéllar called for a UNSC Resolution for a ceasefire in the Lebanese Civil War.

¹¹² UNSC Draft Res (20 February 2024) UN Doc S/2024/173.

¹¹³ United States Mission to the United Nations, ‘Explanation of Vote Delivered by Ambassador Linda Thomas-Greenfield on a UN Security Council Draft Resolution on the Situation in the Middle East’ (February 20 2024) <<https://usun.usmission.gov/explanation-of-vote-delivered-by-ambassador-linda-thomas-greenfield-on-a-un-security-council-draft-resolution-on-the-situation-in-the-middle-east/>> accessed 10 March 2024.

¹¹⁴ Knell (n 4).

permanent UNSC Members possesses this power to prolong a conflict by vetoing a ceasefire. With this reoccurring event of the veto ‘repeatedly rendering the Council paralysed by dysfunction’,¹¹⁵ the UNSC is not achieving their required responsibilities under Article 24 UN Charter. The UNSC are currently held up by the USA’s veto to pass a Resolution for a ceasefire, demonstrating how powerful the veto of the UNSC permanent five Members is, and thus conveying how ineffective international law is in preventing the use of force.

3.3 Self-defence Under International Law, and the Legality of Israel’s Use of Force

The use of self-defence in the current Israel-Palestine conflict will now be discussed, focusing on how effective international law is in preventing the use of force and whether Israel has violated international law in their response to the Hamas attacks.

The inherent right of self-defence is seemingly ambiguous. Article 51 UN Charter omits specific details regarding when or how it should be used, resulting in States using excessive force that is concealed under the argument of self-defence. Chinkin and Kaldor recognise how ‘the lack of clarity about the legal parameters of article 51 and the customary right of self-defence undermines the prohibition on the use of force’.¹¹⁶ This highlights how although it is acknowledged that self-defence is an exception to the prohibition of the use of force, the uncertainty regarding the extent of this exception is dangerously undermining Article 2(4) UN Charter. Chinkin and Kaldor then expand on this by adding that the effect of Article 51 UN Charter’s omissions is ‘to the detriment of those whose security is undermined by the violence and denied the protection of legal certainty’.¹¹⁷ When applying this theory to the current conflict between Israel and Palestine, although Hamas started the attacks on October 7th 2023, it can be argued that Gaza’s security has been undermined. Contrastingly, O’Brien has previously argued that Israel should not ‘abandon effective self-defence measures against terrorism’,¹¹⁸ when speaking about the conflict between Israel and Palestine. Although O’Brien is highlighting how Israel are within their rights to use self-defence against attacks, O’Brien fails to acknowledge the significance of the excessive use of self-defence throughout this conflict. Thus, this author finds Chinkin and Kaldor’s arguments more convincing, as

¹¹⁵ Trahan (n 26).

¹¹⁶ Chinkin and Kaldor (n 83) 167.

¹¹⁷ *ibid.*

¹¹⁸ O’Brien (n 62) 318.

they have effectively considered the negative impact of the unstructured self-defence argument under Article 51 UN Charter. This is reinforced by Franck, who notes that Article 51 UN Charter is ‘dangerously unlimited’.¹¹⁹ This demonstrates how through the UN Charter’s omission regarding the limits of self-defence, States can use excessive power that severely undermines the prohibition on the use of force under Article 2(4) UN Charter.

For the duration of this current cycle of conflict between Israel and Hamas, Israel has argued that their attacks are in accordance with their right of self-defence under Article 51 UN Charter.¹²⁰ When considering self-defence rights, O’Meara claims that the States who respond with self-defence are a ‘victim of an armed attack’.¹²¹ This suggests that States are not using self-defence as an excuse for using force, but instead because they have been victims of an attack. However, O’Meara’s argument is weakened when he notes that a ‘hurdle that states have to overcome before they may lawfully resort to using force’¹²² is proving that the State has been subject to an armed attack. This implies that the requirement of being a victim of an armed attack is an obstacle that States must overcome. However, O’Meara also refers to the States as victims, therefore suggesting that they would not have to jump over the hurdles of the ambiguous criteria under Article 51 UN Charter if they have explicitly been a *victim* of armed attack. This self-contradicting argument that O’Meara has laid down weakens his argument that the States that have been attacked are victims. Furthermore, O’Meara’s argument is not applicable to the current conflict in Gaza, where Israel is arguably using self-defence. Although Hamas attacked first in this conflict, this does not provide an explanation for Israel’s Prime Minister exclaiming that ‘we are continuing the war until the end – until total victory’.¹²³ A ‘total victory’¹²⁴ retaliation does not correspond with this author’s view of a ‘victim of an armed attack’¹²⁵ under Article 51 UN Charter; Israel is not just responding to an armed attack from Hamas, they are demanding ‘total victory’.¹²⁶ Wilmshurst notes how ‘the right of self-defence does not allow the use of force to ‘punish’ an aggressor’.¹²⁷ Yet

¹¹⁹ Franck (n 10) 811.

¹²⁰ Becker (n 87).

¹²¹ O’Meara (n 34).

¹²² *ibid.*

¹²³ Benjamin Netanyahu, Press release statement by Prime Minister Benjamin Netanyahu (press release statement, 13 January 2024) < www.gov.il/en/departments/news/statement-by-pm-netanyahu-13-jan-2023 > accessed 10 February 2024.

¹²⁴ *ibid.*

¹²⁵ O’Meara (n 34).

¹²⁶ Netanyahu (n 123).

¹²⁷ Wilmshurst (n 79).

Israel's 'total victory'¹²⁸ goal is arguably aimed at punishing Palestine for Hamas' actions. Israel's actions are not in line with Article 51 UN Charter, yet Israel's self-defence arguments have been overlooked and widely accepted by Western governments, like the UK and USA.¹²⁹ This has likely been overlooked as a result of the ambiguities in international law under the UN Charter, which has resulted in an ineffective international legal framework, that does not provide an adequate response to attacks, nor does it effectively prevent the use of force internationally – contradicting the aims of the UN to promote international peace and security.

Additionally, the UN Charter does not mention the principles of necessity and proportionality, leaving the interpretation of Article 51 UN Charter to States. Wilmshurst notes that the necessity requirement provides that 'the defensive measure must be limited to what is necessary to avert the attack or bring it to an end'.¹³⁰ This is not what Israel's actions have demonstrated in this conflict. It is difficult to accurately state what amount of force was necessary to stop Hamas in this attack, but the killing of over 30,000 people¹³¹ in Gaza is arguably not necessary to immediately end the attack. Furthermore, the use of force should be restricted to the proportionality requirements because 'the physical and economic consequences of the force used must not be excessive in relation to the harm expected from the attack'.¹³² Israel has imposed physical and economic consequences upon Gaza for many years through the blockade,¹³³ however, their use of force whilst declaring self-defence in this conflict has resulted in nowhere being safe in Gaza.¹³⁴ This dissertation thus argues that Israel's use of force in response to the Hamas attacks is neither necessary or proportionate to the threat received on October 7th 2023. Henderson notes that 'if a terrorist attack is committed on a relatively minor scale and which has relatively minor effects, if a defensive necessity can be demonstrated then a proportionate response would be permitted'.¹³⁵ Henderson is highlighting how the necessity and proportionality requirements would operate in the context of an attack of a smaller scale, which does not represent the Hamas attacks. But

¹²⁸ Netanyahu (n 123).

¹²⁹ Hayden Vernon, 'UK, US and allies offer Israel 'steadfast support' in joint statement' (*The Guardian London*, 9 October 2023) <www.theguardian.com/world/2023/oct/09/uk-us-and-allies-offer-israel-steadfast-support-in-joint-statement> accessed 8 March 2024.

¹³⁰ Wilmshurst (n 79) 967.

¹³¹ Knell (n 4).

¹³² Wilmshurst (n 79).

¹³³ Oxfam International, 'Timeline: the humanitarian impact of the Gaza blockade' <www.oxfam.org/en/timeline-humanitarian-impact-gaza-blockade> accessed 10 March 2024.

¹³⁴ United Nations Israel-Gaza Crisis (n 109).

¹³⁵ Henderson (n 74) 310.

the main argument still stands, that under self-defence, the response should be proportionate to the threat received. Henderson analyses Israel's previous use of force in the Gaza Strip, where Israel have demonstrated a 'forcible response in self-defence',¹³⁶ conveying that this is not the first time that Israel have responded disproportionately to an attack. This is a result of the uncertain legal framework that attempts to regulate the use of force in international law. Nowhere in the UN Charter are the principles of necessity and proportionality laid down, with restrictions on the use of force through self-defence. Chinkin and Kaldor emphasise how this omission has allowed States 'to bring almost any unilateral use of force within the legal ambit of self-defence'.¹³⁷ This conveys how lenient Article 51 UN Charter has been in allowing the use of force under self-defence. Due to the international law under the UN Charter being so ambiguous, Israel has used excessive force under the concealment of self-defence.

Currently, Israel is attempting to justify their excessive use of force through the argument of self-defence, without official condemnation from the UN or a UNSC Resolution for a ceasefire. The weak framework of Article 51 UN Charter has resulted in this use of force that is neither necessary nor proportionate to the threat received from the Hamas attacks. Israel does have the right of self-defence under Article 51 UN Charter, but they have violated customary international law in their attacks against Hamas through a disproportionate use of force. Although it is hard to define what a proportionate use of force would be, due to omissions within the UN Charter regarding the extent of force, the killing of over 30,000 Palestinians¹³⁸ arguably does not represent the necessary amount force to bring the threatening Hamas attacks to an end. Therefore, although Israel does have the right to use self-defence, international law has been breached through an excessive and disproportionate use of force that does not represent the actions of self-defence, but instead reflects a vengeful use of force.

3.4 Conclusion

In summary, it is argued that the weak legal framework governing the use of force in international law is not effective in preventing the use of force. Although Article 2(4) UN

¹³⁶ *ibid.*

¹³⁷ Chinkin and Kaldor (n 83) 129.

¹³⁸ Knell (n 4).

Charter was implemented to prohibit the use of force, it is severely weakened when it is read within the context of the entire UN Charter. Article 51 UN contradicts Article 2(4) UN Charter, arguably making it ineffective as States can use force, under the argument of self-defence – exhibiting how the use of force is not strictly prohibited. The ineffectiveness of this provision is exemplified through the use of force in the Israel-Palestine conflict, although this dissertation is focusing on the 7th of October 2023 Hamas attacks, throughout the history of this conflict, excessive force has been used, further weakening the stance of Article 2(4) UN Charter under international law. Furthermore, the power of the UNSC has been demonstrated throughout this conflict. It is the responsibility of the UNSC to protect international peace and security under Article 24 UN Charter, but the overpowering veto has conveyed the dangerous control that the permanent five Members have. The UNSC is currently in a deadlock, unable to pass an imperative UNSC Resolution for a ceasefire in Gaza; the USA's veto is the last hurdle. The UNSC is not successfully fulfilling its duty to protect international peace and security, furthering how the international legal system under the UN is not effective in preventing the use of force. However, the most significant factor in allowing the use of force in the current conflict in the Gaza Strip is Article 51 UN Charter. The ambiguity under this provision is driving Israel to use excessive force in response to the Hamas attacks. The parameters of the use of force under Article 51 UN Charter are not explicitly stated. Customary international law has attempted to clarify the necessity and proportionality elements to self-defence, but with the UN Charter omitting these principles, there is difficulty in governing Israel's response to Hamas attacks. Israel is within their rights as a Member of the UN to use self-defence to stop the threat of Hamas. However, if Israel wants to legally justify their use of force under Article 51 UN Charter, then they should not have continued with excessive violence to achieve 'total victory'.¹³⁹ This is not what the UN Charter was established to accommodate for.

¹³⁹ Netanyahu (n 123).

CONCLUSION

In conclusion, this research project has established that international law under the UN Charter is not effective in preventing the use of force in the Israel-Palestine conflict. Therefore, the aims of the UN Charter to maintain international peace and security are not being fulfilled as a result of the conflicting UN Charter provisions. Furthermore, Israel has breached international law under Article 2(4) UN Charter. Article 51 UN Charter permits Israel to use self-defence, but their excessive use of force in Gaza is not reflective of self-defence.

Chapter one highlighted the ambiguity behind the international law that governs the use of force. The UN Charter appears to be contradictory when collectively looking at all of the provisions. Article 2(4) protects the aims of the UN Charter to maintain international peace and security by prohibiting the use of force. However, with the exception of self-defence under Article 51 UN Charter, the prohibition on the use of force is diminished. Additionally, the role of the UNSC aims to protect the UN Charter aims under Article 24 UN Charter, but this provision has given too much power to the permanent five UNSC Members through their veto.

Chapter two discussed the further controversy behind the use of force in international law, and whether Article 51 UN Charter could be used against non-State actors. The weakness and ambiguity behind the ICJ Opinion in the *Construction of a Wall* case highlights the ineffectiveness of international law. Therefore, the ICJ's omission in not extending the use of self-defence to non-State actors is not authoritative in this author's view. The impact of UNSC Resolutions 1368 and 1373 in allowing self-defence against non-State actors is more significant in demonstrating that Israel can use self-defence against Hamas, the non-State actor.

Chapter three established that international law is not effective in preventing the use of force in the Israel-Palestine conflict. This is for a multitude of reasons. Firstly, the contradictory nature of Article 2(4) and 51 UN Charter makes it difficult to establish what is permitted under international law. Secondly, the UNSC are not fulfilling their role under Article 24 UN Charter, as the USA's veto is stopping a ceasefire in Gaza. Thirdly, the ambiguity and

omissions under Article 51 UN Charter regarding what constitutes an acceptable amount of force to satisfy self-defence is allowing Israel to use an excessive use of force. Therefore, Israel has taken advantage of the UN Charter provisions to justify their attacks in Gaza. Israel has disregarded the necessity and proportionality principles of self-defence, going beyond what is necessary to stop the Hamas attacks, resulting in a breach of international law that prohibits the use of force.

It is not legally viable for Israel's actions to be described as self-defence under Article 51 UN Charter. The killing of over 30,000 Palestinians¹⁴⁰ and Prime Minister Netanyahu's demands for 'total victory'¹⁴¹ does not encapsulate the intentions of the UN Charter. It is accepted that the UN Charter is ambiguous and needs clarification regarding the specific parameters of Article 51 UN Charter. However, Israel's excessive use of force undeniably goes beyond the argument of self-defence. Israel has breached international law by using force contrary to the prohibition on the use of force under Article 2(4) UN Charter. Israel has gone beyond an exception to Article 2(4) UN Charter (self-defence under Article 51 UN Charter) by using an excessive amount of force, thus exceeding the necessity and proportionality limits of self-defence. Since the implementation of the UN Charter in 1945, the international use of force has been continuously worsening, yet the framework that supposedly governs the use of force has not been updated to keep up with these changes; there is a scope for further development of international law to adapt to the changing use of force around the world. The UN Charter was implemented to maintain international peace and security, but the ambiguous and therefore weakened UN Charter has culminated in an ineffective international legal framework that is unable to prevent the use of force in the Israel-Palestine conflict.

¹⁴⁰ Knell (n 4).

¹⁴¹ Netanyahu (n 123).

BIBLIOGRAPHY

Aust A, *Handbook of International Law* (CUP 2010) 209

Becker T, Press release opening statement of MFA Legal Advisor Dr. Tal Becker at the International Court of Justice proceedings (Proceedings instituted by South Africa against the State of Israel, 29 December 2023) <www.gov.il/en/departments/news/opening-statement-of-mfa-legal-advisor-tal-becker-at-icj-proceedings-12-jan-2024> accessed 26 February 2024

Bethlehem D, 'Self-Defense against an Imminent Armed Attack by Nonstate Actors' (2012) 106 AJIL 770

British Red Cross, 'Famine looms in Gaza: 1.1 million face catastrophic food insecurity' (*British Red Cross*, 5 April 2024) <www.redcross.org.uk/stories/disasters-and-emergencies/world/whats-happening-in-gaza-humanitarian-crisis-grows> accessed 9 April 2024

Brunnée J and Toope S, 'Self-defence against non-state actors: are powerful states willing but unable to change international law?' (2018) 67(2) *International and Comparative Law Quarterly* 263

Chinkin C and Kaldor M, *International Law and New Wars* (CUP 2017)

Culverwell S, 'Israel and Palestine- An analysis of the 2014 Israel-Gaza war from a genocidal perspective' (Senior Honors Projects, James Madison University 2017)

Dobinson I and Johns F, 'Qualitative Legal Research' in Mike McConville and Wing Hong Chui (eds), *Research Methods for Law* (Edinburgh University Press 2007) 19.

Franck T, 'Who Killed Article 2(4)? or: Changing Norms Governing the Use of Force by States' (1970) 64(5) AJIL 809

—— 'Terrorism and the Right of Self-Defense' (2001) 95(4) AJIL 839

Frederking B and Patane C, 'Legitimacy and the UN Security Council Agenda' (CUP 2017) 50(2) PS: Political Science & Politics 347

Gelvin J, *The Israel-Palestine Conflict: A History* (4th edn, CUP 2021)

Glennon M, 'The Limitations of Traditional Rules and Institutions Relating to the Use of Force' in Marc Weller (ed), *The Oxford Handbook of the Use of Force in International Law* (OUP 2016) 79

Goldenberg S, 'Rioting as Sharon visits Islam holy site' (*The Guardian Jerusalem*, 29 September 2000) <www.theguardian.com/world/2000/sep/29/israel> accessed 12 Feb 2024

Gray C, 'The ICJ Advisory Opinion on Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory' (2004) 63(3) *The Cambridge Law Journal* 527

Hart H.L.A, *The Concept of Law* (Clarendon Press 1994)

Henderson C, *The Use of Force and International Law* (CUP 2018)

Henkin L, 'The reports of the Death of Article 2 (4) are Greatly Exaggerated' (1971) 65 *AJIL* 544

——— *How Nations Behave: Law and Foreign Policy* (Columbia University Press 1979)

Higgins R, *Problems and Process: International Law and How We Use It* (OUP 1994) 250

International Committee of The Red Cross 'What are jus ad bellum and jus in bello' (*International Committee of The Red Cross*, 22 January 2015)
<www.icrc.org/en/document/what-are-jus-ad-bellum-and-jus-bello-0%Ef%BB%BF>
accessed 2 December 2023

Klabbers J, *International Law* (CUP 2023)

Klein M, ' Hamas in Power' (2007) 61(3) *Middle East Journal* 442

Knell Y, 'More than 30,000 killed in Gaza, Hamas-run health ministry says' (*BBC News*, 29 February) <www.bbc.co.uk/news/world-middle-east-68430925> accessed 5 March 2024

Linetsky Z, 'The Political Economy of a Lasting Israel-Hamas Truce' (2014) 16(4) *Insight Turkey* 45

Murphy S, 'Self-defense and the Israeli Wall Advisory Opinion: An Ipse Dixit from the ICJ?' (2005) 99(1) *AJIL* 62

Netanyahu B, Press release statement by Prime Minister Benjamin Netanyahu (press release statement, 13 January 2024) <www.gov.il/en/departments/news/statement-by-pm-netanyahu-13-jan-2023> accessed 10 February 2024

O'Brien W, *Law and Morality in Israel's War with the PLO* (Routledge 1991)

O'Meara C, 'Reconceptualising the right of self-defence against 'imminent' armed attacks' (2022) 9(2) *Journal on the Use of Force and International Law* 278

Oxfam International, 'Timeline: the humanitarian impact of the Gaza blockade' <www.oxfam.org/en/timeline-humanitarian-impact-gaza-blockade> accessed 10 March 2024

Ronzitti N, 'The Expanding Law of Self-Defence' (2006) 11(3) *Journal of Conflict and Security Law* 343

Shaw M, *International Law* (CUP 2021)

Simma B, *The Charter of the United Nations: a commentary* (3rd edn, OUP 2012)

Strand T, 'Tightening the Noose: The Institutionalized Impoverishment of Gaza, 2005–2010' (2014) 43(2) *Journal of Palestine Studies* 6

The Editors of Encyclopaedia Britannica, 'Israel-Hamas War' (*Britannica*) <www.britannica.com/place/Middle-East> accessed 9 March 2024

Trahan J, 'Vetoes and the UN Charter: the obligation to act in accordance with the 'Purposes and Principles' of the United Nations' (2022) 9(2) Journal on the Use of Force and International Law 243

United Nations Digital Library, 'Resolution 1368 (2001) / adopted by the Security Council at its 4370th meeting, on 12 September 2001'

<<https://digitallibrary.un.org/record/448051?ln=en>> accessed 16 February 2024

United Nations Israel-Gaza Crisis, 'Letter by the Secretary-General to the President of Security Council invoking Article 99 of the United Nations Charter' (6 December 2023)

<www.un.org/en/situation-in-occupied-palestine-and-israel/sg-sc-article99-06-dec-2023> accessed 5 March 2024

United Nations News 'Russia vetoes Security Council resolution condemning attempted annexation of Ukraine regions' <<https://news.un.org/en/story/2022/09/1129102>> accessed 3 February 2024

United Nations Peacemaker, 'Security Council Resolution 242: The Situation in the Middle East' <<https://peacemaker.un.org/middle-east-resolution242>> accessed 16 February 2024

United Nations Security Council, Counter-Terrorism Committee Executive Directorate (CTED), 'Legal issues' <www.un.org/securitycouncil/ctc/content/legal-issues#:~:text=The%20adoption%20of%20Security%20Council,preparation%2C%20or%20perpetration%20of%20such> accessed 16 February 2024

United Nations The Question of Palestine, 'Origins and Evolution of the Palestine Problem: 1917-1947 (Part I)' < www.un.org/unispal/history2/origins-and-evolution-of-the-palestine-problem/part-i-1917-1947/#Origins_and_Evolution_of_the_Palestine_Problem_1917-1947_Part_I> accessed 28 February 2024

United States Mission to the United Nations, 'Explanation of Vote Delivered by Ambassador Linda Thomas-Greenfield on a UN Security Council Draft Resolution on the Situation in the Middle East' (February 20 2024) <<https://usun.usmission.gov/explanation-of-vote-delivered->

by-ambassador-linda-thomas-greenfield-on-a-un-security-council-draft-resolution-on-the-situation-in-the-middle-east/> accessed 10 March 2024

Vernon H, 'UK, US and allies offer Israel 'steadfast support' in joint statement' (*The Guardian London*, 9 October 2023) </www.theguardian.com/world/2023/oct/09/uk-us-and-allies-offer-israel-steadfast-support-in-joint-statement> accessed 8 March 2024

Wilmshurst E, 'The Chatham House Principles of International Law on the Use of Force in Self-Defence' (2006) 55(4) *International and Comparative Law Quarterly* 963

Woodward B, 'The UK supports Israel's right to self-defence in line with the UN Charter: UK statement at the UN Security Council' (UN Security Council meeting on the Middle East, 18 October 2023) < www.gov.uk/government/speeches/the-uk-supports-israels-right-to-self-defence-in-line-with-the-un-charter-uk-statement-at-the-un-security-council> accessed 10 December 2023