

Right to self-defence in international law, is it enough reason for using force? Taking into account North Korea, and the role played by the United Nations.

Abstract

The UN Charter was aimed at establishing a normative order and maintaining international peace and security among member states. Under Article 51 of the Charter, it is stated that states have a right to use necessary force as self-defence. In the following paper secondary qualitative research with the help of scholarly articles and journals, documentation historical documents in order to understand the right to self-defence and the extent to which a member nation is allowed to the use of armed force. The paper concludes that while nations are given a strict framework for availing the right, states have overlooked these guidelines upon numerous occasions. Therefore in practical application, the right can be used in a magnitude of ways, some of which are outside the bounds of the guidelines stated in the UN Charter.

Chapter 1: Introduction

The notion of Self-defence in international law refers to one or multiple states utilizing force in order to repel attacks or imminent threats against themselves or national interests that are protected under law. International law dictates that it is the right of a state to use force in situations where the nation is responding to a violent attack or a being threatened of one. It is one of the exceptions against the prohibition state in *Article 2 clause 4* of the *UN Charter*. In 2018, North Korea tested an intercontinental ballistic missile called the Hwasong-14. After a few weeks passed, Kim Jong-Un ordered another test with an ICBM¹. It was stated that the missile had enough range to possibly reach major cities within the continental U.S. The situation became even more alarming when it was later disclosed by the Defence Intelligence Agency that North Korea has the potential to successfully arm their ICBM with nuclear warheads within a year. The Washington Post also stated that US analysts have stated that Pyongyang has produced nuclear warheads that are able to fit inside these missiles².

Mark Bowden, American Journalist, had an in-depth examination of the options available to the US as a response to the North Korean nuclear threat. In regards to North Korea, the US has been trying to prevent the Kim dynasty from possessing nuclear weapons since long the Bush Administration. According to Mark Bowden, preventing North Korea and the Kim dynasty from gaining access to nuclear weapons has been a priority of America for some time. It predates the Pyongyang testing its missiles for the first time in 2006, back during the Bush Administration. However, all efforts were in vain as during the Obama Administration the Kim regime was able

¹ Sang-hun, Choe. "U.S. Confirms North Korea Fired Intercontinental Ballistic Missile." The New York Times. The New York Times, July 4, 2017. <https://www.nytimes.com/2017/07/04/world/asia/north-korea-missile-test-icbm.html>.

² Ibid.

to detonate four more nuclear warheads³. When Richard Nixon held office, the U.S. made many efforts to control North Korea from developing nuclear warheads. The Nixon administration utilized a host of methods from issuing threats, ratcheting up diplomatic sanctions, conducting military exercises, leaning on China, and in recent years, there have been rumours that American has utilized cyber-sabotage in effort to stop the Kym dynasty from obtaining nuclear devices⁴.

In response to the nuclear activities of North Korea, the UN Security Council has approved specific sanctions. Each resolution aims to condemn North Korea to terminate its activities as these attempts violate previous UN Security Council resolutions. All the nine resolutions proposed were adopted by the Security Council, and Resolution 2087 refers to acting under Article 41 of the UN Charter⁵.

Background

Adopting the United Nations Charter in 1945 was a huge milestone for international law after the Second World War⁶. The article helps overcome the concept of utilizing force or threatening another state as a legitimate means of dealing with a dispute. The notion took the place of largely unsuccessful attempts at regulation of war founded by Covenant of the League of Nations in 1919 and Kellogg-Briand Pact in 1928⁷. While there have not been any repeats of the horrific global wars that does not mean that the use of force has fallen into obscurity.

³ Bowden, Mark. "How to Deal With North Korea." The Atlantic. Atlantic Media Company, August 9, 2017. <https://www.theatlantic.com/magazine/archive/2017/07/the-worst-problem-on-earth/528717/>.

⁴ Ibid

⁵ Daenport, Kelsey. "Fact Sheets & Briefs." UN Security Council Resolutions on North Korea | Arms Control Association, 2018. <https://www.armscontrol.org/factsheets/UN-Security-Council-Resolutions-on-North-Korea>.

⁶ Franck, Thomas M. "Terrorism and the Right of Self-defense." *American Journal of International Law* 95, no. 4 (2001): 839.

⁷ Ibid

The doctrine of self-defence is one of the only policies found in international law that is able to evade their prohibition. The policy has gained importance over the years as there has been an increase in the illegal use of force against world peace and security.

Usually, the power is exercised through military action or a threat of military action against another country by one or more states. It can be argued that the exact situation was one imagined when creating the prohibition of force within the UN Charter, Article 2 clause 4. As the article is confined to the international relations between states. The past military efforts by the US, UK, and Australia against Iraq during 2003, is a notable example of the Article in action. The military actions of the three led to the inevitable change of government in Iraq.⁸ The attained results proved to be highly controversial, the consequences of which were felt by not just Iraq but the entire international community. Consequences that the international community continues to face even in contemporary times.

In more recent years, however, when a state decides to resort to force it is often against a non-state actor having a terrorist nature. A good example of this can be seen in the United States' response to 9/11 in 2001. The US launched an all-out military campaign against the Islamic terrorist group al-Qaida, one responsible for the attacks⁹. For the law to remain feasible, it has to be malleable enough to meet new developments and challenges found in the international community, however, not be flexible to the point that it can support the interests/actions of individual nations over the international community.

Problem Statement

⁸ Pillar, Paul R. "Intelligence, policy, and the war in Iraq." In *Intelligence and national security policymaking on Iraq*. Manchester University Press, 2018.12

⁹ Franck, Thomas M. "Terrorism and the Right of Self-defense." *American Journal of International Law* 95, no. 4 (2001): 840

The right to self-defence is the only omission from the prohibition placed on the threat to use or actual use of force stated within the purposes and principles of the UN. The problem which arises due to this omission is not regarding the right itself, but when a state is entitled to utilize its right to self-defence. Furthermore, there have been instances in the past that have favoured a particular state in the equation. Additionally, the UN has been a rather weak authority when considering those instances. Therefore, one has to see where or not the ideal of self-defence is such that offers power to a potential victim in international conflict or is it simply a tool misused. When considering the factors involved, one has to question various aspects of the laws set in place to oversee the right. Especially since the relations with North Korea have been going downhill with the US.

Research Questions

- What are the International laws/bodies governing the issue of self-defence?
- Has the right been abused in the past? If so, is it feasible in a manner that would be seen democratic?
- What constitutes an armed attack under the policy and can the victim invade the hostile state in self-defence?
- What powers does the UN have over member nations, and how these powers impact the right of self-defence?
- Viewing the past instances of the utilisation of the right, what can be said regarding the impact it has on international relations among nations?
- Can the right be used as a preventative measure or as a green light to use force against another nation?

- If the right offers the use of force, to what extent should it be considered as self-defence? Have those standards been violated in the past?

Significance of the Study

The study alludes to one of the most debatable topics within international law as there are many variables that will change depending on the given situation. The policy of self-defence was proposed as a means to overcome international wars among countries. It allows countries to protect against threats to their sovereignty, national security, and political independence.

Rationale of the Study

The notion of self-defence allows for a country to overcome the prohibition of utilizing force against a state or a non-state actor, as such, can the policy be abused by nations should be evaluated. Furthermore, the ethical implication of policy should be questioned as it can lead to all-out military action against other nations. In recent years, North Korea has continuously overlooked the sanctions adopted by the UN Security Council. There are at the brim of developing nuclear warheads, and US researchers have stated that they have the range to hit major continental cities. As such, the US needs to take action against the Kym dynasty and so the question of whether the policy of self-defence is enough reason for using force in international law becomes of substantial importance for the US.

Structure of the study

Chapter one introduces the topic both from a historical perspective and the contemporary advancements made in relation to the doctrine of self-defence in international law. The given chapter contains the problem statement of the paper. The chapter also dictates the rationale of the study as well as the impact of the topic on the international community.

The second chapter of the study will cover a review of the existing literature, which will include sub-chapters regarding relevant topics. The chapter also addresses the argumentative structure of the theoretical framework used. The third chapter of the study includes a clear presentation on the research findings and discuss the obtained results making a clear connection between the found result and the literature at hand. The concluding chapter has a clear summary that condenses the key parts from the overall study. There are recommendations given for future research on the topic and implications regarding the study of the policy and practice.

Chapter 2: Literature Review

2.1 International Law and Right to Self-Defence

Origin of the modern doctrine of self-defence can be traced back to the Caroline incident which occurred between the United States and the British Empire in 1837. In the early 19th century, Canada was under the Rule of the British, however soon much like the American Revolution, there was a rebellion against the British colonialism. At the time, the newly formed United States was neutral, even so, the US, along with other countries sharing the Canadian border, sympathized with the Canadian insurrection. In December of 1837, the Caroline, an American ship, was anchored on the bank of the Niagara River¹⁰. There were rumours that the Caroline was bringing assistance to the rebels to fight against the colonial regime. While there was no evidence to confirm those rumours, the British troops crossed the river and attacked the Caroline. During the attack, the troops were able to kill a few Americans and they lit the ship on fire. The incident caused a lot of tension between Washington and London. On one side, America claimed that due to the actions of the British troops, they effectively violated the sovereignty of the state as they intentionally crossed US borders to attack a US ship¹¹. In defence, the British replied that their actions were taken in measures of self-defence. Though later the British troops issued an apology, after several diplomatic exchanges, the Caroline incident established contemporary practices of international law in regard to the right of self-defence. Furthermore, it was noted that with negotiations on adopting the “*United Nations Charter*” at the San Francisco Conference (1945), the right to self-defence was added to “*Article 51*” and a part of the conventional branch

¹⁰ Rebaz, Khdir. "The right to self-defence in International Law as a justification for crossing borders: the Turkey-PKK case within the borders of Iraq." *Russian Law Journal* 4, no. 4 (2016).

¹¹ Ibid.

of international law. Following the implementation of the UN Charter, the right to self-defence became one of the most discussed issues in both academic and legal circles¹².

Additionally,

“The International Court of Justice (ICJ) clarified the right and its scope of its applicability to states in a number of cases, such as Military and Paramilitary Activities in and against Nicaragua (1986), the Legality of the threat or use of Nuclear weapons (1996) and the Legal Consequences of the Construction of a wall in the occupied Palestinian territory (2004)”¹³.

It should be noted that the words used to define the term are varies across the vast sea of literature available on the subject. Words used are a subjective selection made on the part of the scholar discussing the issue. Therefore, it is necessary to provide the meaning of a select few terms as they will have a significant part to play in the article. For the article at hand the terminology *anticipatory self-defence* is seen as referring to measures taken as a response to an imminent threat. Whereas the term *pre-emptive self-defence* refers to measures which came as a response to a perceived threat, one which would have been imminent in the near future. While the ICJ has not proposed the idea of using force in an anticipatory context the court has stated otherwise. The court implies that if anticipatory action is taken in a situation where there is a threat of armed attack and that there are no doubts, then the anticipatory action is lawful. Thus the rate of the imminent attack can be seen as an absolute requirement for the lawful exercise of the right of self-defence. As such, the term “*pre-emptive self-defence*” abides by the Caroline incident¹⁴. Therefore, the use of pre-emptive self-defence is lawful under conditions where there is no moment for deliberation. Additionally, aggressive self-defence is a notion not accepted to

¹² Ibid.

¹³ Ibid.

¹⁴ Green, James A., and Francis Grimal. "The threat of force as an action in self-defense under International Law." *Vand. J. Transnat'l L.* 44 (2011): 285.

be lawful universally¹⁵. However, those who do support the doctrine believe it to be a vital aspect of establishing justice in the international community.

An incident known as the Turkish-Kurdish issue, one many centuries old, can be seen projecting similar issues as brought up in the right of self-defence. In the invasion of Kurdish land and its ethnic oppression occurred after the Turkish republic was found in 1923. The Kurds soon became a minority within Turkey, yet their historical connection to the land was much stronger than the Turkish people. Furthermore, they were people with their own history, a language distinct from the Turkish republic and various cultural and political differences. Under such conditions, they qualify to be seen as people under international law¹⁶.

Applicability of the right in customary international law can be traced back to a letter written by the “*US Secretary of State Daniel Webster*” in 1841. The letter was addressed to the British representative “*Lord Ashburton*”. The letter read; “*it will be for that government to show a necessity of self-defence, instant, overwhelming, leaving no choice of means, and no moment for deliberation*”¹⁷ the quote laid down two specific conditions which called for the right to be exercised. “*Necessity and immediacy*” were the given conditions, however, a third condition which the states must meet is not listed within the paragraph. The third condition was stated to be “*proportionality*”, in essence, the state looking to utilize the right to self-defence under customary international law must show that there is a necessity for using the force and that there is an immediate need to do so, furthermore, the force planned to be used is proportionate to the threat at hand.

¹⁵ Ibid.

¹⁶ Rebaz, Khdir. "The right to self-defence in International Law as a justification for crossing borders: the Turkey-PKK case within the borders of Iraq." *Russian Law Journal* 4, no. 4 (2016).

¹⁷ Leo van den hole, Anticipatory Self-Defence under International Law, 19(1) American university International Law review 96 (2003).

Conventionally, the right to self-defence is seen to be rather narrow than the customary idea.

There is some room for interpretation found in the relevant articles, in Article 51 of the UN Charter it is stated that;

There were no policies present in the UN Charter which could prevent an individual or state from exercising their right to self-defence. However, the charter also stated that there must be an “**armed attack**” occurring against the victim. Any member of the UN that underwent such an attack was free to exercise their right until the Security Council intervened with the intent to promote peace and security among the international lobby. Furthermore, all instances of members exercising the right of self-defence as well as the measures used are to be immediately reported to the Security Council. Doing so does not change nor impact the responsibilities of the Security Council in the slightest, therefore the response of the Security Council will be aimed at maintaining international peace and security¹⁸.

There has been a huge divide among scholars looking to interpret the article. There are some who see the article as restrictive, placing limits on the scope of applicability on the right to use force against an armed attack. The side believes that the right to self-defence can be exercised only in situations when the state is responding to an armed attack which is currently underway. There needs to be a physical attack and the victim must suffer to be classified as a victim, such conditions would state that the attacker used illegitimate force against the victim state. However, the second interpretation of the article is one that is much broader. Scholars believe that while the nation does have the right to self-defence against a physical attack, it also has the right to self-defence if there is an imminent armed threat to the sovereignty, political or otherwise, and security of the state.

¹⁸ Rebaz, Khdir. "The right to self-defence in International Law as a justification for crossing borders: the Turkey-PKK case within the borders of Iraq." *Russian Law Journal* 4, no. 4 (2016).

The Kurds opted for a non-violent method to express their right to self-determination, however, they were quickly silenced by Turkey who utilized its military forces to deny the right. Due to this ordeal, the PKK was founded in 1978, the organization was aimed entirely to demand the right of Kurdish people. Though the organization was aimed at demanding the rights of the people, it was labelled as a terrorist organization, and so Turkish forces fought the group under the right of self-defence. In response to the militant operations against the PKK established camps in Iraq during the 80s and 90s. These camps worked as strategic bases promoting the rights of Kurdish people through other countries and acted as a retreat for the PKK forces. It was noted that these camps were never utilized to conduct surgical strikes or any militant actions. The main purpose these camps served was as safe havens for the PKK troops while they negotiated with Turkey. Even so, Turkey crossed Iraq's borders to attack these camps. Later, the PKK camps were handed over to the "*Free Life in Kurdistan*" and the "*Kurdistan Democratic Solution Party*"¹⁹.

During that time, the camps posed no threat to Turkey, there were still several attacks on the camps as they are still viewed as PKK bases. While there is an abundance of literature on the subject of self-defence within international law, there are not many studies relating to the events which transpired between Turkey and the PKK²⁰. The case is not evaluated under the provided guidelines of international law, something which is quite odd as the case offers an insight into the issue of restoring peace and security to a region.

Another aspect that comes under both necessity, as well as proportionality for the application of self-defence, is duration of the response. The use of force as self-defence can only be seen as lawful until the attack is ongoing or the injurious consequences of the attack have abated. The

¹⁹ Ibid.

²⁰ Ibid.

notion proposed is rather direct, continuing the response once there is no longer a situation that requires defensive measures is seen as unlawful. Similarly, the concept of proportionality relies on an equilibrium between the forces at play, i.e. the force used by the aggressor and the force required to abate the received attack. Even so, both ideas of necessity and proportionality are malleable as they are highly depended on the context of the situation at hand. The governing factors here are suitability and rationality. Therefore, the prohibitions remain shrouded in indeterminacy, as there are no set criteria applicable to a general situation. Article 51 fails to even mention the terms let alone address their significance, regardless the aforementioned concepts were never amended by the United Nations and are widely recognized as governing criteria for exercising the use of force as self-defence.

2.1.1 Modern Theories of the Philosophy and Principle of Self-Defence in International Law

The nature of the self-defence doctrine calls for justifications as there are many legal and moral implications that come with the use of their creed. However, due to freedom of interpretation regarding the UN Charter's opposing articles, there have been a number of theories proposed with varying views on the subject from a political, social and ethical standpoint.

The following paper will utilize an argumentative structure based on the *Theory of Personal Autonomy*²¹. The theory was proposed by philosophers *Immanuel Kant* and *George Hegel* along with criminal theorist *George Fletcher*²². The theory moves away from emphasizing the invader, instead, it is focused on the rights of the victim/defending state. The foundation of the theory lies in the belief that unlawful hostility is a breach of autonomy enjoyed by states. Such aggression also affronts the concept of rights. The notion operates on the idea that right cannot

²¹ Young, Robert. *Personal autonomy: Beyond negative and positive liberty*. Routledge, 2017.

²² Ibid.

yield to wrong by nature of rights, as such the victim of the wrongful action has a duty to exercise defensive measures necessary²³. As stated by Locke's terms, utilizing unlawful aggression is a breach of social contracts, effectively reverts both the parties involved to a naturally established state of hostilities amongst combatants seen prominent before the advancement of civilization and international law. Such actions if gone unpunished will lead the international community to a slow descent into chaos and anarchy. Thus, the given philosophy offers that even to divert a minor assault, the victim nation has the right to utilize defensive force even if lethal extents are required²⁴.

The nuclear testing conducted by the Kym destiny is seen as a sign of a nuclear threat against the sovereignty of the state by the majority of the leading authorities of the US.

These accusations are supported by various factors including the range of the missiles tested. Furthermore, there is very limited information regarding the scope of the nuclear program in North Korea. As such, America has to consider all possible outcomes in an act of pre-emptive self-defence. Furthermore, due to the rough history between the two nations, the assumptions are sound in their damaging conception. The given circumstances under the lens of the theory of personal autonomy, it would be mandatory for the United States to enact self-defence measures even if they require the use of force against North Korea.

A clear limitation of the following theory used is the overwhelming power it awards to the victim. Furthermore, the theory of autonomy will only yield results if the two states at conflict have a similar level of power to exercise against one another or the victim is a state with more power. The limitations of the go back to the ambiguity of the present definitions expressing harm to national/political interests and sovereignty of a state.

²³ Young, Robert. *Personal autonomy: Beyond negative and positive liberty*. Routledge, 2017.

²⁴ Ibid.

2.1.2 The UN Charter and the Preventative Self-Defence Policy

Under Article 51 of the United Nations Charter, States are allowed the right to self-defence. The issue that the concept presents is not regarding the existence of the right but regarding the circumstances under which the right is justified. While the right to self-defence allows states to utilize force against a potential threat, there is one condition that must be met. That being the specific circumstance of an armed attack²⁵. Other requirements for availing the right to self-defence state that the state must demonstrate that the force intended to be used is a necessity and not excessive for the given situation.

However, there is a lot of ambiguity surrounding the concept. In the Charter, it is mentioned that nations have the right to defend against an oncoming armed attack. However, the charter any temporal meaning of the stated requirements. Ordinarily, the given guidelines would suggest that the assailant has to be a physical threat present and that the attack should have occurred recently or occurring right at the moment the state decides to utilize their right to self-defence. However, with events such as the 11th September 2001, the idea of invoking self-defence before an armed attack was proposed.

Another question that is raised frequently is when can a state consider an armed attack to have begun? The question can be further specified into two opposing ideas, for one should an armed attack be seen as when there is physical evidence that the attacking state has damaged the victim state using missiles, tanks and other tools of war. Or should the state take charge before the enemy has launched their assault, just on the basis of the knowledge of the future plans of the opposing party?²⁶

²⁵ Rebaz, Khdir. "The right to self-defence in International Law as a justification for crossing borders: the Turkey-PKK case within the borders of Iraq." *Russian Law Journal* 4, no. 4 (2016).

²⁶ Rebaz, Khdir. "The right to self-defence in International Law as a justification for crossing borders: the Turkey-PKK case within the borders of Iraq." *Russian Law Journal* 4, no. 4 (2016).

Alternatively, there is an argument that states that acting on either of the two implications leads only the victim state to suffer. In such cases, usually, the victim states cannot hold a candle to their aggressors, as such if the policy of self-defence or prohibition of the use of force is applied after an all-out assault. It would be quite difficult for the victim state to recover from the initial damage received. Furthermore, as seen by the invasion of Iraq at the hands of the Bush Administration, if the power scale is in favour of the assailant there is the change that opposition by the NATO as well as the UN Security Council is not enough to deter the state²⁷. Furthermore, in a situation where the victim state is allowed to utilize war as a resolution, the state will simply fall to the assailant. As such, perhaps there is an indicator that should be utilized to help realize and deter the plans of the aggressors before the reaction to the above mention terms.

Most of the issues that arise do so because of the precision lacking in Article 51, even so, there is not much focus on doing so. Instead, the majority of the focus is awarded to the inherent form of the right of self-defence as well as the assessing of the imminence threats to the nation.

“Preventative self-defence” became an umbrella term that encompasses all the varying forms of self-defence that have been utilized in discussions on the issue²⁸. The term includes interceptive, anticipatory and pre-emptive forms of self-defence. Even so, many intellectuals such as Ashley Deeks, have voiced their concerns regarding the use of poorly defined terms when discussing the act of self-defence during an attack at the hands of both the scholars as well as the states. Most of the terms are not used consistently, as such there is an air of confusion regarding the appropriate terms. The end results if a misinterpretation of the position held by the ones using the terms and misinterpreting the impact of customary practice.

²⁷ Taft, W. H., John Yoo, and Ruth Wedgwood. "Agora: Future Implications of the Iraq Conflict'." *AJIL* (97 (2003): 2003.

²⁸ Rebaz, Khdir. "The right to self-defence in International Law as a justification for crossing borders: the Turkey-PKK case within the borders of Iraq." *Russian Law Journal* 4, no. 4 (2016).

As a result of this line of thinking the Bush doctrine was proposed. According to that policy, the US was at war with terrorism as well as all those nations who had harboured terrorists over the years. Understandably, these decisions were made during a time when the US government, as well as the Bush Administration, felt that there was a need for preventative self-defence in the wake of the devastating attack on the twin towers and the Pentagon on 9/11. The language used to prose the doctrine was quite clear as the President stated; ***“either you are with us or you are with the terrorists”***²⁹.

In September of 2002, President Bush gave a speech before the United Nations. In that speech he characterized the possible use of force against Iraq. His speech states it a necessity to use force for the existing Security Council resolutions and to eradicate a dangerous threat to international peace and security. In response, the Security Council adopted ***Resolution 1441***, finding Iraq to be in material breach of prior resolutions established by the Security Council. Furthermore, Security Council threatened severe consequences for further intransigence. Iraq refused to comply the newly imposed resolutions, thus the U.S led ***“an ad hoc coalition of the willing”*** invading Iraq on 19th March 2003. Iraq was quickly defeated, and with that the regime of ***Saddam Hussein*** and the ***“Ba'ath party”*** ended³⁰.

After the initial bombing of Iraq, land troops were sent in to support the ***anti-Taliban Northern Alliance***. They were successful in chasing off the Taliban and setting up a new government with whom the United States could share friendly relations. By 2003, President Bush made the announcement that concerning the major operations in Iraq were concluded. However, by 2007

²⁹ Clark, Caroline. "‘Either You are with Us, or You are with the Terrorists’: How UK and US Television News Reported the 2003 Iraq Conflict." In *Corpus-Assisted Discourse Studies on the Iraq Conflict*, pp. 181-201. Routledge, 2011.

³⁰ Taft, W. H., John Yoo, and Ruth Wedgwood. "Agora: Future Implications of the Iraq Conflict'." *AJIL* (97 (2003): 2003.

the Taliban forces made their comeback, furthermore back in 2002 the Bush Administration had expanded the scope of their war including both Iran and North Korea along with Iraq. The President stated that all three of the existing states were “*axis of evil*” as they were the harbours of terrorists. However, it was noted that there were no direct linking any of the three countries to the events of September 11th.

2.2 Past and contemporary Regulations of the Threat or Use of Force

2.2.1 Past Attempts at Regulating of the Threat or Use of Force

In past times, the League of Nations was one of the first organizations which were created with the aim to maintain world peace. The League was also the first to attempt legal management of collective security. An important factor to note is that the “*Covenant of the League of Nations 1919*” contained an obligation which read that there shall be “*no resort to war*”³¹. Furthermore, the League established that any war or a threat of one was a concern of the whole League. The League was free to take any actions against the perpetrator if those actions were believed to be sensible and effective in safeguarding the peace.

For the time, the League and its Covenant were a definite landmark. However, the League was plagued with loopholes. For instance, it was stated that members of the League were to submit any dispute which they saw likely to lead to a disagreement in arbitration, judicial settlement or the League Council. This was seen as their obligation under the League of Nations, however, the agreement to prohibit war would only last for three months. Three months after the report by the League Council or an award by the arbitrator they two states could resort to war. Another huge problem was the lack of harmony between the Council as it failed to offer a report which was unanimously agreed upon by the members of the League. Under such circumstances, the League members reserved the right to take action considering it necessary to have a uniform agreement for the preservation of justice. Furthermore, it was noted that;

³¹ Franck, Thomas M. "Terrorism and the Right of Self-defense." *American Journal of International Law* 95, no. 4 (2001): 839-843.