

## General Provisions for the Right of Legitimate Defense in the Light of Public International Law

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### Abstract

The general provisions of the right of legitimate defense from the perspective of public international law represent one of the major theories regulated by all international instruments, and which international jurisprudence and judiciary have elaborated upon in light of what is required and proportionate with the rules of international legality. The use of the right of legitimate defense by states is considered one of the most important rights they resort to immediately upon the occurrence of an attack against them, as long as such attack or aggression is unlawful—meaning without justification.

The problem in this regard centers on the situation of conflicts currently witnessed by the international community, particularly since some states resort to altering the concept of aggression, and to invoking risks and fears of extensive violations of international peace and security, in a manner that enables them to use their right of legitimate defense under the pretext of relying on international legality.

Therefore, in an analytical framework, we addressed the regulation of the conditions governing this right exercised by states—whether related to the conditions of aggression or to the conditions of defense. Based on this, we concluded that states, as members of the international community, must adhere to the binding international instruments—major powers before smaller ones—in order to reduce the use of this right, in return for preventing the occurrence of any aggression. We thus hope that the hand of the international community and its interest in achieving international peace and security will prevail over any other consideration or interests.

Keywords: Act of aggression – Public international law – United Nations – Right of legitimate defense – Proportionality.

### FIRST: INTRODUCTION

There is no doubt that public international law applies equally to all members of the international community, which requires, in reality, that the rights exercised by states—as well as the obligations imposed upon them—be regulated in a manner that ensures these rights are used lawfully, without allowing any acts of violation by one state against another. Since such violations, when committed without justification, entitle the state subjected to them to exercise its right to defend its sovereignty and interests, this is what is known as the right of legitimate defense.

This right has occupied a prominent position in public international law, and its activation now requires the fulfillment of certain conditions—whether these conditions relate to aggression or to defense. Although each set of conditions has its own nature and specific rules, this does not negate the fact that these conditions are closely linked to the rules of international public order, considering that their regulation is governed by binding international instruments.

In this sense, the right of legitimate defense is among the rights of a critical nature, which must be exercised immediately upon the occurrence of aggressive acts. Accordingly, any member of the international community may benefit from this right, regardless of its relative weight or military standing, as long as it is capable of exercising the right of response.

### **Second: Importance of the Research**

The importance of this research lies in clarifying the boundaries that separate acts of aggression, on the one hand, and the exercise of the right of legitimate defense within the framework of international legality, on the other. This importance reflects the necessity of maintaining a balance between international interests—something that may be difficult to achieve—as well as identifying situations in which states are unable to exercise their right of legitimate defense as an organized international authority. It also includes clarifying the true role performed by international bodies, especially the United Nations Security Council, as all of the above constitutes a fundamental axis of the importance of our study in this field.

### **Third: Research Problem**

It must be stated that the main problem of the research lies in the manipulation of the rules governing legitimate defense as regulated by public international law. Some states tend to fabricate the idea of threat and aggression toward other states in pursuit of controlling their assets, and this claim is supported by certain international entities under the pretext of preserving international peace and security. The more serious problem is that major powers, at times and for the purpose of achieving their interests, resort to using aggression while claiming that they are exercising the right of legitimate defense, even though they present themselves as advocates of peace and seekers of its realization. The more delicate and dangerous problem is that the Charter of the United Nations did not regulate the right of legitimate defense in the desired manner—whether concerning the regulation of the conditions of proportionality and necessity, or the precise organization of the notification requirement.

### **Fourth: Research Questions**

The study's questions are reflected in the following aspects:

- What is meant by aggression, and how is its particular nature determined, considering that it constitutes the basis for legitimate defense among states?
- What are the conditions of aggression that serve as the main reason for exercising the right of legitimate defense, and which international instrument has regulated these conditions? Are these conditions exhaustive, and is there any deficiency in their regulation or application by the international community?
- If the correlation and proportionality between defensive conduct and aggressive conduct are essential conditions for exercising the right of legitimate defense, how is this proportionality implemented in practice, and how is it assessed? Is there a clear standard for this? And is proportionality required only in the act of defense, or in aggression as well, or in both?
- What are the international measures followed to limit cases of aggression or to confront them completely, and are these measures preventive or remedial? And are they carried out by states or by international bodies?

### **Fifth: Scope of the Research**

It is worth noting that the scope of the research consists of shedding light on the right of legitimate defense, to the exclusion of other rights of states that have been regulated by international instruments. In addition, this scope expands to include the conditions of aggression, the conditions of defense, and the measures that would limit cases of such aggression. Therefore, outside the scope of this research fall any attempts to regulate the right of legitimate defense in domestic laws, as well as any discussion of any other right of states other than legitimate defense.

### **Sixth: Objectives of the Research**

It should be noted that the subject of the research has several objectives, which may be summarized as follows:

- Shedding light on the nature of aggression and its particularity, considering it the basis upon which states exercise their right of legitimate defense. This includes clarifying, at the outset, the nature of aggression and its regulation by international instruments, followed by addressing its specificity, especially since aggression by states against one another constitutes a real distinction compared to what is recognized in domestic national legislation.
- Clarifying the conditions of the act of aggression as a fundamental requirement for legitimate defense on the part of states, considering that the fulfillment of these conditions in a manner contrary to international legality grants the attacked state the authority to exercise the right of defense.
- Examining in detail the conditions of legitimate defense, represented in the conditions of necessity and proportionality. Since each of these conditions has its own distinctive nature, we begin by clarifying the condition of necessity, then proceed to discuss the organization of proportionality.
- Clarifying the international measures that guarantee the right of legitimate defense and highlighting the role of the United Nations Security Council in adopting these measures.

### **Seventh: Research Methodology**

In this context, we adopt the analytical method, as it is the most accurate approach for the subject of the research. Applying this method includes examining the legal texts addressed by international instruments concerning the topic, in addition to the contributions made by international jurisprudence and case law regarding the aforementioned subject.

### **Eighth: Research Outline**

- Chapter One: Conditions related to aggression.
- Chapter Two: Conditions related to legitimate defense and the international measures guaranteeing its legality.

### **\*\*Chapter One**

#### **Conditions Related to Aggression\*\***

There is no doubt that acts of aggression committed by one state against another constitute, in themselves, a violation of the rules of public international law, as they contradict the principles of international legality and justice. Therefore, not every unlawful act committed by one state against another is considered aggression; rather, such aggression must be

characterized and its criteria precisely established, as it represents the true basis allowing a state to exercise its right of legitimate defense.

Accordingly, it may be said that discussing the conditions related to aggression—addressed in this chapter—requires first identifying the concept of aggression and highlighting its particularity, followed by clarifying the conditions that constitute such aggression. This will be explained in detail in two main sections, as outlined below.

### **\*\*Section One**

#### **The Nature of Aggression and Its Particularity as the Basis for Legitimate Defense\*\***

It should be noted that aggression, being an unlawful criminal act, constitutes one of the most serious international crimes (Fuad, 2019, p. 217 et seq.) (Al-Far, 1996, p. 40 et seq.) (Abdel-Khaleq, 1989, p. 325 et seq.) known to humanity due to its grave consequences, whether at the level of the international community as a whole or at the level of individuals (Obeid, 1977, p. 188 et seq.) (Amer, 2003, p. 103 et seq.) (Al-Waleed, 2010, p. 25 et seq.). Since such aggression contradicts the requirements of legality and the rules of international public order, its regulation has been addressed in multiple contexts, whether by the United Nations (*Article 2/4 of the UN Charter*) or within the framework of the Rome Statute of the International Criminal Court, noting the differences in regulation between the two.

A group of scholars argues that for an act of aggression to be recognized as an international crime, several criteria must be met. The first criterion is that the act must be criminalized under international law. The second criterion is that the perpetrator must be a state within the meaning of public international law (Fuad, p. 217 et seq.) (Khalifa, 2020, p. 20 et seq.). The third criterion is that the conduct must fall within what is defined by the Rome Statute of the International Criminal Court, which determines when a crime qualifies as an act of aggression (Farija, 2017, p. 466 et seq.), bearing in mind that the Statute also defines other crimes distinct from aggression, such as war crimes (Azab, 2014, p. 557 et seq.), genocide (Al-Batraoui, 2001, p. 249 et seq.), and crimes against humanity (Al-Enezi, 1994, p. 142 et seq.).

In this context, aggression may be described as any conduct undertaken by one state toward another whenever such conduct constitutes a clear violation of the UN Charter and international legality (Fuad, p. 217). Therefore, outside the scope of aggression addressed in this research is the definition adopted by the Rome Statute, considering that the Statute applies primarily to individuals rather than states, as states possess full and independent legal personality distinct from the individuals residing within them (Abu Suba', 2016, p. 101 et seq.) (Shareef, 2021, p. 91 et seq.).

Acts of aggression committed by members of the international community constitute positive conduct undertaken by states without any legitimate interest justifying such actions. As previously noted, for conduct to be considered aggression, it must be carried out by the state through its main organs. This particularity naturally excludes conduct committed by international organizations or groups of individuals. However, the question arises: What if aggression is committed by an armed group within a state (Ismail, 2021, p. 1051 et seq.) against a neighboring state? Can the attacked neighboring state invoke the right of response?

The answer is yes, naturally. However, the response must be directed against the origin of the aggression, as will be clarified later. But does this qualify as aggression? Yes, it does constitute aggression within the framework of legitimate defense, but specifically in the context of aggression between states — the subject of our discussion — and armed groups.

Moreover, acts of aggression committed by members of the international community vary in form. There is no single pattern of aggression; it may occur by land, sea, or air. It may be

committed by a single state against another, by a group of states against one state, or vice versa. What matters is that the aggression stems from the will of the state on the one hand and constitutes an infringement of sovereignty on the other. Furthermore, aggression need not target the entire territory of a state; it may affect only part of it. Certain locations, such as military aircraft and vessels, as well as diplomatic and consular premises, are considered extensions of state territory and enjoy sovereign protection. These premises are protected by the territorial state under headquarters agreements concluded between states. This does not prevent the sending state from exercising its right of defense when aggression occurs against such premises. The same applies to military bases located in another state's territory pursuant to an international agreement.

This means that aggression may target any of the above, and in such cases, it is considered aggression against the state's territory and sovereignty. Although obstacles may arise in the ability of the state to respond, this does not negate the existence of real aggression. Another question arises: If aggression is described as material conduct, can cyber aggression — being immaterial — be considered aggression against the state? Does this form of aggression constitute a flagrant violation of state sovereignty or of the UN Charter such that it may be classified as aggression?

The answer is that cyber warfare or cyber aggression is no less dangerous than material aggression committed by states against the territories of others; the only difference lies in its effects. Therefore, we may refer to what is now known as digital sovereignty (Al-Nayri, 2022, p. 281 et seq.), which is the aspect of sovereignty affected by such aggression. As for the UN Charter, although it does not explicitly address cyber aggression (Taha, 2024, p. 197 et seq.), it may be said that this type of aggression clearly contradicts the principles established by Articles [1], [2], and [55] of the Charter.

## **\*\*Section Two**

### **Conditions of the Act of Aggression as a Fundamental Requirement for Legitimate Defense\*\***

The question that arises here concerns the conditions of aggression that, when met, entitle a state to exercise its right of legitimate defense. Accordingly, it may be said that aggression has several conditions that can be discussed in detail. We begin by addressing the unlawfulness of aggression, followed by the requirement that aggression must be imminent, and finally the requirement that it be specific. Each of these conditions will be explained in detail below.

#### **First: The Unlawfulness of Aggression**

The central question in this context is: When is aggression considered unlawful? To answer this, it is necessary to refer to the General Assembly resolution of the United Nations, numbered [3314], which addressed the concept of the unlawfulness of aggression, defining it as follows:

“The use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations.” (UN General Assembly Resolution, 1974)

The first observation regarding this resolution is that “unlawfulness” is a broad and flexible term. The manifestations of unlawfulness within the resolution were not exhaustively enumerated, which makes it difficult to establish a clear and definitive standard for determining the unlawfulness of aggression. International precedents confirm this ambiguity.

The broad nature of this term stems from the scope of the UN Charter itself, particularly because it was drafted to remain applicable over a long-term period, consistent with the intent of its founders to ensure that the United Nations would endure as a central international organization capable of influencing global politics (Nafea, 1986, p. 67 et seq.). Therefore, any conduct or form of aggression that contradicts either the general principles of the Charter or any of its specific provisions—especially the previously mentioned Articles 1 and 2—falls within the category of unlawful aggression.

However, this does not preclude the possibility of establishing a practical criterion for determining when aggression is unlawful. The criterion we consider most appropriate is the criterion of “absence of legal justification”, as aggression typically occurs without any legitimate reason.

### **Second: Imminent (Ongoing) Aggression**

This condition is considered one of the most important requirements of aggression due to the significant challenges it creates on the international stage. Its essence is that aggression by one state against another must have already begun and must still be ongoing. An anticipated or imminent threat does not entitle a state to exercise its right of legitimate defense. This is clearly stated in Article [51] of the United Nations Charter, which affirms the inherent right of states to defend themselves only when an armed attack occurs. However, this also requires continuous communication with the Security Council and informing it of all developments.

This means that invoking imminent danger is only permissible in relation to ordinary individuals, as regulated by Article [31/1(c)] of the Rome Statute of the International Criminal Court. Even national legislation adopts the same stance as the ICC Statute (Mahdi, 2024, p. 209 et seq.). Thus, the occurrence of aggression must be a material fact, clearly observable.

A further question arises: What is the legal status of *mistaken aggression*? And what about aggression that begins momentarily and then stops for some interest? What is the legal position regarding *preemptive preparation* in situations where aggression is almost certainly expected?

To answer these questions, scholars argue that mistaken aggression justifies legitimate defense unless the aggressor state acknowledges its mistake, accepts responsibility, restores the situation to its original state, and bears all resulting damages — provided the aggression did not continue for a long period, as necessity is assessed according to its limits (Fuad, 2009, p. 25 et seq.). Otherwise, it would constitute an abuse of the right of legitimate defense. The same applies to aggression that begins briefly and is then withdrawn, regardless of the motive. As for *preparation for aggression*—when a state, through its competent organs, believes that aggression is unavoidable—the state may not exercise the right of legitimate defense because intentions carry no legal weight in public international law. However, this does *not* prevent the state from adopting preventive measures, such as military readiness or notifying competent international bodies like the Security Council (Al-Yousef, 2022, p. 281 et seq.), or seeking assistance from an international mediator (Amara, 2018, p. 133 et seq.) from among neighboring states or other members of the international community.

### **Third: The Specific Object of Aggression**

Discussing the specific object of aggression requires applying Article [51] of the United Nations Charter, as it is the primary legal foundation for defining aggression. However, the article does not explicitly identify the object of aggression. Therefore, reference must be made to the previously mentioned General Assembly Resolution.

In light of this resolution, the object of aggression includes violations of sovereignty (Al-Sayed, 2006, p. 153 et seq.), territorial integrity, political stability, or violations of the United Nations

Charter. Yet, a question remains: How does the Charter itself represent an object of aggression? And does this include the Charter in its entirety or only specific provisions?

The answer is that the term *Charter* in this context refers to any provision related to the rights of states. The provisions concerning aggression that are connected to the Charter appear specifically in Articles [1], [2], [43], [51], [52], since the Charter contains many articles unrelated to aggression in any way.

## **\*\*Chapter Two**

### **Conditions Related to Legitimate Defense and International Measures Ensuring Its Legality\*\***

It goes without saying that necessity must be assessed strictly in proportion to the situation. In the realm of international relations, respect for state sovereignty is among the core elements of international public order. Upholding this respect constitutes a collective practical obligation pursued by all members of the international community, particularly since the majority of international charters and treaties—foremost among them the Charter of the United Nations—affirm the importance of respecting the principles that ensure security and international legality throughout the world.

However, it must be noted that mutual respect among states ceases once one state commits an act of aggression against another. In such a case, the attacked state finds itself confronted with the necessity of defending itself. This defense is only considered lawful when conducted within specific limits, without which it becomes an unacceptable abuse of the right of defense on the international level. Therefore, legitimate defense is intrinsically linked to certain international bodies that ensure its legality.

Accordingly, this chapter is divided into two sections as follows:

#### **\*\*Section One**

##### **Conditions of Legitimate Defense\*\***

It should be noted that legitimate defense between states is governed by two main conditions: necessity and proportionality. Each will be addressed separately as follows:

##### **First: The Condition of Necessity**

The question arises here regarding what is meant by necessity, what standards must be followed, and whether these standards are regulated by the UN Charter or derived from general rules of public international law and the jurisprudence of scholars and courts. Therefore, we begin by defining the concept of necessity, followed by the position of the UN Charter on this condition, and finally the standards governing it and the obstacles surrounding it at the international level.

##### **1. The Concept of Necessity**

Scholars hold that the necessity condition in legitimate defense may be understood from several perspectives. Each of these perspectives contributes to shaping its meaning:

- a qualitative aspect, and
- a compelling aspect.

If legitimate defense is deemed necessary, this means that the attacked state had no other option but to defend itself. In such cases, the exercise of defense becomes compulsory. As for the manner in which defense should be conducted to fulfill this necessity, this will be discussed later under the standards governing the condition.

In summary, the necessity condition refers to the urgent need to defend in order to survive and protect the legitimate interests and assets of the state.

##### **2. The Position of the United Nations Charter on Necessity**

It is well known that the UN Charter addresses the condition of necessity through Article [51]. While this article explicitly affirms the authority of the Security Council to take necessary measures (Al-Yousef, p. 282 et seq.), it also allows states to notify the Council of the measures they take in response to aggression. Therefore, Article 51 implicitly includes the necessity condition.

However, the manner in which the Charter regulates this condition is neither sufficient nor adequate. From our perspective, this condition has not been properly defined nor have its standards been clarified. In fact, the Charter has contributed to increasing the ambiguity surrounding necessity, leaving the concept open to broad interpretation without justification.

### **3. Standards Governing the Condition of Necessity**

It must be stated that the condition of necessity is governed by several important standards. All of these standards must be met; otherwise, this balance collapses and legitimate defense loses one of its essential pillars. These standards may be summarized as follows:

**First Standard: Directing the Defensive Action Toward the Source of Aggression (the Identified Object)**

The principles of justice and international legality require that defensive measures be directed against the state responsible for committing the aggression, as liability for harm falls only on the party that caused it. This requirement necessitates distinguishing between several scenarios in practice.

Defense may be directed against the very state that carried out the aggression—this presents no difficulty. However, difficulties arise in cases where aggression is committed by armed groups operating within the territory of a particular state (Ismail, p. 1052 et seq.), or when aggression originates from a foreign military base operating within the territory of a third state (Al-Azraq, 1964, p. 8 et seq.).

To resolve these scenarios, it must be noted that if armed groups carry out the aggression, defensive action must be directed against them, provided that the state from whose territory these groups operate has taken a passive stance toward the attacked state. In such cases, the attacked state is entitled to respond directly to those armed groups.

However, if the aggression originates from a foreign military base, that base possesses its own sovereign authority. Thus, the host state bears no responsibility for the aggression. Given that necessity must be assessed strictly according to its limits, defensive action should be directed directly at the base itself—unless the host state takes steps to restore the situation to its lawful state.

### **Second Standard: Defense Must Be the Last Resort to Repel Aggression**

It must be emphasized that exercising the right of legitimate defense is not the first step taken by the attacked state. Defense is preceded by several possible diplomatic stages, particularly when the attacked state lacks the military capability to confront the aggressor directly. Such stages may include resorting to mediation (Amara, p. 134 et seq.), good offices (Sadaqa, 2016, p. 103 et seq.), or other peaceful mechanisms aimed at de-escalation and restoring stability.

However, in some cases these mechanisms fail to achieve their objectives, tensions escalate between the two states, and military response becomes the last resort.

### **Third Standard: The Temporary Nature of Defense**

The temporary nature of defense refers to the provision in Article [51] of the United Nations Charter, which allows states to defend themselves temporarily until the Security Council takes the necessary measures. At the same time, the defending state must immediately notify the Security Council of all defensive measures undertaken.

The difficulty arises when the Security Council delays in taking the necessary steps to protect the sovereignty of the attacked state. In such a scenario, does the defensive action become permanent by force of circumstance?

To address this, it may be said that the temporary nature of defense carries two meanings:

- A general meaning, indicating that defensive actions do not last indefinitely, since every conflict must eventually come to an end.
- A specific meaning, based on Article [51], which limits temporary defense only until the Council intervenes.

Ideally, Article [51] should have required the Council to adopt an immediate and direct measure to halt aggression, rather than proceeding gradually until military intervention becomes the only remaining option.

From our perspective, a state may continue defending itself as long as the aggression persists. However, there exists a powerful measure capable of stopping aggression instantly: the suspension of diplomatic and consular relations between the aggressor state and all member states of the organization.

This measure is one of the most severe actions the Security Council could take. It resembles an economic blockade by neighboring states, but with far greater impact. Yet, in practice, no such measure has been applied in international relations.

There is no legal barrier to enforcing such a measure, even against a militarily powerful state, as it aligns fully with the essence and objectives of the UN Charter, particularly Articles [52] and [54].

### **Second: The Condition of Proportionality**

It should be noted that the condition of proportionality is a complementary requirement to the previously discussed condition of necessity. Therefore, addressing proportionality requires examining the proportionality of the aggression itself, on the one hand, and the proportionality of the defensive response, on the other. Although the prevailing view in legal doctrine is to assess the proportionality of the defensive action (Asmani, 2014, p. 57 et seq.), we believe both sides must be considered, as explained below.

#### **1. Proportionality of Aggression**

This form of proportionality focuses on the relative military weight of states. A state's military capacity is often known or publicly reported by specialized platforms and institutions such as [Defense World], [SLPRL], [Military Balance], [Global Firepower].

Accordingly, aggression committed by a major military power against a small state or a neutral state—that is, a state that does not align with any side of an international conflict and remains detached from wars and military alliances—cannot be considered proportionate. Neutrality, however, does not exempt such states from the obligations of the UN Charter, particularly obligations related to military measures imposed by the Security Council (Bernard, 2023, p. 108 et seq.).

In such scenarios, there is no proportionality whatsoever, especially since the international influence of these smaller or neutral states is limited, while aggression by a major military power could, in some cases, result in the complete destruction of the attacked state—whether through devastation of its infrastructure or its disappearance due to the use of nuclear, atomic, or other weapons of mass destruction (Jafar, 2004, p. 45 et seq.) (Mohammed, 1966, p. 340 et seq.).

## 2. Proportionality of Defense

This is the widely recognized dimension of proportionality, and it is rooted in the principle of necessity, which must be assessed strictly within its limits.

Practically speaking, states respond with the full extent of their military capability, not merely in proportion to the method of aggression used against them. This was clearly demonstrated when an Israeli military unit was attacked in October 2023, after which Israel launched massive military responses involving aerial, biological, and nuclear weaponry (Bouqandoura, 2010, p. 20 et seq.) (Hammad, 2004, p. 97 et seq.), despite the initial act being a legitimate exercise of defense by the Palestinian state over its occupied territories.

The use of weapons of mass destruction is prohibited under international law, and therefore cannot be used as a means of defense—particularly when the attacking state does not possess such weapons.

However, if the aggression itself is carried out using nuclear, atomic, or other weapons of mass destruction, then under the principle of necessity, the defending state may find no option but to respond using similar weapons (Al-Kiya, 2006, p. 30 et seq.).

### **\*\*Section Two**

#### **International Measures to Ensure the Legality of Legitimate Defense\*\***

The United Nations Charter entrusts the Security Council with the authority to take the necessary measures regarding the exercise by states of their right of legitimate defense, considering that aggression by one member of the international community against another constitutes a grave violation of the principles established by the Charter. In addressing these international measures, the discussion is divided into two main parts as follows:

#### **First: The Obligation to Notify the United Nations Security Council of Legitimate Defense**

In accordance with Article [51] of the United Nations Charter, the obligation imposed upon a state to notify the Security Council when exercising its right of self-defense is considered mandatory. The Charter explicitly states that such notification must be made *immediately*. Based on the wording of the Charter, this obligation is best understood as an obligation to achieve a result, not merely an obligation of due diligence (Badr, 2009, p. 240 et seq.).

This raises an important question: If a state fails to notify the Security Council of the defensive measures it has undertaken following an armed attack, should the state face any penalty for this omission? Or is the notification merely a formal requirement of the Charter?

To answer this, scholars agree that the Security Council has no authority to impose penalties on the attacked state for failing to notify, particularly in cases of severe aggression where notification may be practically impossible. However, in ordinary circumstances, notification is entirely feasible, especially given the ease of modern global communication technologies.

From our perspective, if the failure to notify is deliberate, this may constitute a misuse of the right of legitimate defense by the state.

Furthermore, although Article [51] does not explicitly require the Security Council to notify the aggressor state to cease its unlawful action, the structure and spirit of the article imply that such notification falls within the measures undertaken by the Council (Atiya, 2005, p. 72 et seq.).

#### **Second: Measures Entrusted to the United Nations Security Council**

The Charter of the United Nations establishes several important measures aimed at maintaining international peace and security. The drafters of the Charter considered it

necessary to gradually escalate these measures in terms of their severity. The measures therefore begin with mere recommendations, followed by non-military measures, and ultimately—if no solution is reached—the Security Council may adopt military measures. These measures are regulated under Articles [39], [41], and [42] of the Charter and are discussed in detail below (Khalifa, p. 280 et seq.).

**(a) Settlement Through Peaceful Means at the Invitation of the Security Council**

It should be noted that internationally recognized peaceful means of dispute settlement are numerous, including negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, and other peaceful methods available through regional agencies and arrangements. This implies that one of these means must be pursued when a dispute arises and escalates to the point of posing a serious threat to international peace and security.

In such cases, the Security Council may invite the parties to settle their dispute using any of these peaceful methods. The authority of the Council in this context is limited to issuing invitations, whether on its own initiative or upon the request of the General Assembly, the Secretary-General, or any member state of the organization. This demonstrates the essential role played collectively by all member states in maintaining international peace and security.

**(b) Settlement Through a Specific Peaceful Method at the Invitation of the Security Council**

The Charter authorizes the Security Council to call upon the parties to a dispute to adopt a specific peaceful method when such a method is likely to resolve the conflict. It must be emphasized that this measure represents the final peaceful stage available to the Security Council. Such an invitation may be issued at any stage of the dispute.

**(c) Non-Binding Recommendation**

There are instances where the parties to a dispute fail to reach a settlement, thereby exacerbating the situation. If they fail to utilize the peaceful mechanisms previously mentioned, the Security Council may select a specific method that the parties should use to resolve the conflict. However, such recommendations are not legally binding on states.

Consequently, the aggressor state may simply ignore the Council's recommendation—a situation observed frequently in the case of the occupying Zionist entity, which repeatedly disregarded Security Council recommendations concerning the Palestinian territories.

Nevertheless, one of the parties may refer the matter to the International Court of Justice to bring legal action against the aggressor state. In such situations, all measures taken by the Court must be observed by the Security Council, in accordance with the provisions of the UN Charter.

**(d) Non-Punitive, Non-Military Measures (Binding Recommendations)**

The measures adopted by the Security Council under this category are binding, provided they do not infringe upon the legal rights or positions of the disputing parties. Examples of such measures include the interruption of communications and connections, whether land-based, aerial, maritime, or railway connections where applicable.

**(e) Military Measures**

This advanced stage represents the final step in the Security Council's efforts to preserve international peace and security and resolve disputes between states. The military measures or sanctions adopted at this stage are temporary, and they include the deployment of peacekeeping forces and the use of air, land, or sea forces to restore peace and security.

The organization of these forces requires member states to place at the Council's disposal whatever military forces are deemed necessary to resolve the dispute. Consequently, a state cannot invoke its status as a neutral state to avoid fulfilling this obligation.

## CONCLUSION

Given that legitimate defense constitutes one of the most important rights of states under public international law, addressing its regulation is of great significance, especially in light of the international conflicts observed in the global arena today. Power struggles often occur in a manner that may disrupt established balances, leading to a gradual return to the "law of the jungle" after it had long been abandoned.

Therefore, within the scope of this research, we examined the conditions governing legitimate defense from the perspective of public international law, whether relating to the conditions of aggression or the conditions of defense. Based on the analysis presented, we arrived at several findings and recommendations outlined below.

### First: Findings

1. Article [51] of the United Nations Charter regulates the right of legitimate defense without specifying the *object of aggression*, despite the fact that defining this object is fundamental.
2. There exists a significant difference between the right of defense as regulated by the United Nations Charter and the manner in which it is addressed under the Rome Statute of the International Criminal Court.
3. The right of legitimate defense is one of the essential rights available to all member states of the international community; however, its exercise is strictly limited by the requirements of legality and international public order.
4. The UN Charter entrusts the Security Council with broad powers in cases of aggression or disputes between states.
5. Article [51] lacks an effective mechanism capable of halting aggression against the attacked state until the Security Council reaches a final decision regarding the dispute.
- 6.

### Second: Recommendations

1. We propose that the General Assembly amend Article [51] of the United Nations Charter so that it explicitly includes the object of aggression, in accordance with what was outlined by the Assembly in Resolution [3314].
2. Additionally, the article should be revised to regulate the conditions of necessity and proportionality in the exercise of legitimate defense between states so that there is neither excessive use nor inadequate application of the Charter's provisions. Furthermore, a genuine sanction should be imposed on any aggressor state that fails to cease its acts of aggression. This sanction may take the form of suspending diplomatic and consular relations between all UN member states and the aggressor state as a means of pressure to halt the aggression and restore stability.

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