



USE OF FORCE

Introduction into International Law



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INTRODUCTION

- Theory of just war (*bellum iustum*) → to ensure that war in a particular case was morally justifiable → two attributes
 - A) Right to go to war (*ius ad bellum*)
 - B) Right of (proper) conduct in war (*jus in bello*)
- **Augustine of Hippo:** The City of God
- **St. Thomas Aquinas:** Summa Theologica
- **Hugo Grotius:** De Jure Belli ac Pacis Libri Tres
- **Great War (WWI)** → change of the view upon war on the plane of politics and international relations → 1928 - The Kellogg–Briand Pact
- Founding of the United Nations. → **UN Charter** → Article II (4) (prohibition of the use of force) → Exceptions: self-defense, use of force with UN Security Council approval

SELF-DEFENSE

- UN Charter → Art. 51
- **A) Collective self-defense**
 - Military and Paramilitary Activities (*Nicaragua v. United States of America*), Merits [1986]
- **B) Individual self-defense**
- Limited by the **principle of proportionality** → lawfulness of self-defense, among other considerations, depend on the proportionality of the measures taken in self-defense

PREEMPTIVE SELF-DEFENSE

- Customary international law recognizes a subject right to preemptive self-defense
- Pre-condition = presence of necessity (instant, overwhelming, and leaving no choice of means, and no moment for deliberation)
- Invasion of Iraq in 2003 → the Bush doctrine

USE OF FORCE WITH UN SECURITY COUNCIL APPROVAL

- UN Charter → Art. 45
- Korean War 1950-1953
- Iraqi 1991