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0521820138 - Recourse to Force: State Action against Threats and Armed Attacks

Thomas M. Franck

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Recourse to Force State Action Against Threats and Armed Attacks

The nations that drafted the UN Charter in 1945 clearly were more concerned about peace than about justice. As a result, the Charter prohibits all use of force by states except in the event of an armed attack or when authorized by the Security Council.

This arrangement has only very imperfectly withstood the test of time and changing world conditions. It did not anticipate the Cold War which incapacitated the Security Council through the permanent members' frequent recourse to the veto. In requiring states not to use force in self-defense until after they had become the object of an actual armed attack, the Charter failed to address a growing phenomenon of clandestine subversion and of instantaneous nuclear threats. Perhaps most of all, the Charter failed to make allowance for the dramatic rise in public support for human rights.

Fortunately, although the Charter is very hard to amend, the drafters did agree that it should be interpreted flexibly by the United Nations' principal political institutions. In nearly sixty years, the text has undergone extensive interpretation through this practice. In this way the norms governing use of force in international affairs have been adapted to meet changing circumstances and new challenges. The book also relates these changes in law and practice to changing public values pertaining to the balance between maintaining peace and promoting justice.

THOMAS M. FRANCK is Murry and Ida Becker Professor of Law and Director, Center for International Studies at New York University School of Law.

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New York University School of Law



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Summum ius summa iniuria

“Extreme justice is injustice”

Legal maxim cited by Cicero in *De Officiis* I, 10, 33. The maxim, in slightly different form, is attributed to Terence [Publius Terentius Afer], *The Self-Tormentor*, 1.796 (“*Ius summum saepe summa est malitia*”).

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*Harriette and Norman Dorsen in gratitude for a lifetime
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