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THE OXFORD COMPANION TO INTERNATIONAL RELATIONS

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VOLUME 1

Afghanistan–Kosovo War

ULB Tirol



+C22883770X

OXFORD
UNIVERSITY PRESS

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- Meadows, Donella et al. *The Limits to Growth: The 30 Year Update*. (White River Junction, Vt., 2004).
- McMichael, Philip, ed. *Food and Agrarian Orders in the World Economy*. (Westport, Conn., 1995).
- Mintz, Sidney W. *Sweetness and Power*. (New York, 1985).
- Patel, Rajeev C. *Stuffed and Starved*. (London, 2007).
- Pimentel, David. *Food, Energy and Society*. (Boca Raton, La., 2008).
- Sage, Colin. *Environment and Food*. (Abingdon, U.K., 2012).
- Shanin, Teodor, ed. *Peasants and Peasant Societies*. (Oxford, U.K., 1987).
- Shiva, Vandana, and Gitanjali Bedi, eds. *Sustainable Agriculture and Food Security*. (New Delhi, 2002).
- Tauger, Mark B. *Agriculture in History*. (New York, 2011).

James A. Paul

FORCE, USE OF

At the domestic level, the state's monopoly on the use of force is an essential element of the rule of law, provided that force is exercised within the checks and balances of the separation of powers. Loss of the monopoly on violence is a typical characteristic of a "failed state." Coercive measures, including the use of armed force, are solely aimed at enforcing the laws of the state and securing its continued existence vis-à-vis threats from within or from other states, and they are bound by strict legal rules. An independent judicial system is indispensable for a nonarbitrary use of the state's coercive powers. In general terms, the meaning of "force" is not limited to "armed force" alone. It is in the nature of coercive measures, however, that they are ultimately effective only in connection with the threat of violent means.

Use of Force under International Law. In relations with other states as sovereign entities, a state operates under premises that are different from those at the domestic level. Under modern international law, a state cannot claim a sovereign right to the use of force in its relations with other states. In the context of the UN Charter, the phrase "use of force" essentially relates to armed—or military—force. According to Article 2(4), all member states are under the obligation to

"refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state." The two exceptions to this rule are inherent in the meaning of the ban: (1) the right of individual or collective self-defense (Article 51) and (2) collective enforcement action by the Security Council on the basis of Chapter VII of the UN Charter ("Action with respect to threats to the peace, breaches of the peace, and acts of aggression"). In a way that is similar to the state's use of violence at the domestic level, those exceptions are meant only to enforce the general ban—that is, to undo the consequences of acts of aggression by states or to prevent them. Under the United Nations' system of collective security, states are meant to rely on the coercive authority of the Security Council that acts "on their behalf" (Article 24[1]). They possess, however, the "inherent right" of self-defense, individually or collectively (i.e., with the support of other states), as long as the Security Council has not taken measures "to maintain international peace and security." (Article 51) Unlike as in the era before World War I, self-help is no longer a central element of relations between sovereign states, but only a measure of last resort.

Material Conditions for the Ban on the Use of Force.

To make a general ban on the use of force legally meaningful and morally justified, the international system must have reached a state of organization with at least some elements of a separation of powers. The United Nations Organization—with the General Assembly, the International Court of Justice and the Security Council as supreme executive organ—is meant to provide a basic, though imperfect, framework within which states can exercise their sovereign rights and expect to have them protected. As long as there existed no agreed-upon system of rules for the resolution of disputes or conflicts of interest—in the "state of nature" of international relations that is best described by the German term *Souveränitätssanarchie* (anarchy among sovereign states)—states essentially had to rely on self-help, including alliances with other states, which ultimately meant resort to armed force. Self-help as an essential element of external state behavior was gradually curtailed, and eventually phased out, with the advent of interna-

tional humanitarian law in the period before, and efforts at criminalizing aggressive war immediately after, the First World War.

History of the Ban. Until the twentieth century, the international use of force was seen as an intrinsic part of the exercise of state sovereignty.

Jus ad bellum ("Right to War"). In a system in which the actual balance of power often was the result of a test of force among sovereign actors, war was considered a legitimate means to decide a dispute. Rules applied to the actual exercise of this right by the state, however. In a certain sense, this is reflected in the just-war doctrines of earlier centuries, inspired by St. Augustine's (354–430 CE) notion of *bellum justum* that spelled out conditions for the right to conduct war, such as: just cause, competent authority, the right intention, war is only used as a measure of last resort, proportionality in the use of force, etc. Influential exponents of the just-war doctrine were Thomas Aquinas (1225–1274) (*Summa theologiae*, Part 2 of Part 2, Question 40) and Francisco de Vitoria (1483–1546) (*De Indis et de iure belli relectiones*, 1557). The criteria formulated in the classical doctrine resemble very much those of the modern notion of "humanitarian intervention," or of the more recent "responsibility to protect" (R2P) principle.

Jus in bello ("Right in War") In addition to these conditions, advocates of the notion of just war, such as Hugo Grotius (*De jure belli ac pacis libri tres*, 1625) have set out rules that apply in the actual conduct of war (*jus in bello*), irrespective of whether the war is just or not. Among those rules is the principle of minimum force ("military necessity"), the requirement to distinguish between combatants and civilians, the fair treatment of prisoners, etc. Important steps in the development of the rules of warfare were made, inter alia, through the adoption of the Geneva Convention of 1864 ("Convention for the Amelioration of the Condition of the Wounded in Armies in the Field") and the Hague Convention of 1899 ("Convention with Respect to the Laws and Customs of War on Land"). Since the nineteenth century, the provisions of *jus in bello* gradually developed into the system of international humanitarian law that is represented by the Geneva Conventions of 12 August 1949 and the

Additional Protocols of 1977 ("Protocols I and II additional to the Geneva Conventions").

Paradigm Change. The right to wage war, however, was not challenged until after World War I. The Treaty of Versailles of 28 June 1919 indicated a fundamental change in the meaning of war. The Treaty clearly stated a country's responsibility for the "loss and damage" caused by an "aggression" against other states (Article 231) and decided on the creation of a "tribunal" to try the German emperor "for a supreme offence against international morality and the sanctity of treaties" (Article 227). These provisions implied the inherent illegality of a war of aggression. They were not yet fully reflected in the Covenant of the League of Nations (Part I of the Treaty of Versailles), however. A paradigm change in terms of international law occurred with the Kellogg-Briand Pact of 1928 ("Treaty between the United States and other Powers providing for the renunciation of war as an instrument of national policy"). Its Article II states: "The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means." This treaty thus effectively abrogated the *jus ad bellum*, the right to resort to war, and did away with the approach embodied in the nineteenth-century doctrine of Carl von Clausewitz (1968, Book I, Chapter 1), for whom war was "simply the continuation of political intercourse with the addition of other means." The paradigm change of the Kellogg-Briand Pact is reflected in the United Nations Charter, which was adopted after World War II. Its Preamble states "that armed force shall not be used, save in the common interest," and Article 2(4) interdicts any threat or use of force in a manner "inconsistent with the purposes of the United Nations." The common interest referred to in the Preamble is essentially determined by the respect for the sovereign equality of all member states, which includes the preservation of their territorial integrity and political independence, that is, their protection from acts of aggression. The conditions under which force may be used, apart from acts of self-defense, are laid out in Chapter VII of the UN Charter, which establishes

a system of collective security, but with serious flaws in terms of doctrine and procedure.

Implementation of the Ban by the United Nations Organization. The ban on the use of force is incorporated into the UN Charter in reference to the protection of the sovereignty of member states. The Security Council is vested with the authority to enforce the ban on the basis of the provisions for coercive measures laid out in Chapter VII of the Charter (Articles 41ff). In particular, Article 42 authorizes the Council to take action "by air, sea, or land forces" to "maintain or restore international peace and security." The Council exercises these vast coercive powers within the procedural rules of Article 27(3), however. It gives each permanent member (China, France, Russia, United Kingdom, United States) the right of veto over any decision, and at the same time, it provides that these states are not bound by the otherwise general obligation to abstain from voting in cases in which they themselves are party to a dispute (as, for instance, when a permanent member commits an act of aggression). The veto rule has brought about an effective paralysis of the Council whenever there is a constellation of conflicting interests among permanent members, and it has meant the de facto reintroduction of the earlier abandoned *jus ad bellum* (in favor of five privileged states, namely the Council's permanent members) "through the back door." Under the existing provisions of the Charter, a permanent member enjoys de facto impunity for any illegal use of force, since it can veto any draft resolution directed against itself. The meaning of the maxim "might makes right" is almost nowhere more obvious than in those provisions.

Unilateral Implementation of Chapter VII Resolutions. Apart from the unilateral use of force that the veto privilege effectively encourages on the part of the permanent members or the states allied with them, Security Council practice has generally favored a kind of unilateral approach toward the implementation of coercive measures on the basis of Chapter VII resolutions. Neglecting the provisions of Articles 43ff (on the making available to the Council the armed forces, and in particular national air force contingents, by all member states) and

Article 47(3) (providing for "strategic direction" of those forces by the Military Staff Committee, which consists of the chiefs of staff of the permanent members), the Security Council often chose to "authorize" member states to implement its resolutions, effectively at their own discretion. This has encouraged so-called "coalitions of the willing" to act on behalf of the entire international community. Armed measures such as those against Iraq in 1991 and Libya in 2011 were carried out as de facto "coalition wars," without any influence of the Security Council as a collective body over their conduct. This practice has undermined the general ban on the use of force because it allows interested states, as "enforcers," to follow their own strategic agendas and to decide for themselves, without any checks and balances, which particular military measures to take.

Arbitrariness in the Use of the Council's Coercive Powers. Another problematic aspect of the use of force under the UN Charter lies in the discretionary power of the Security Council as regards the determination of a "threat to the peace, breach of the peace, or act of aggression" (Article 39), which the Council is required to make before a binding decision on coercive measures can be adopted. The controversial nature of this authority has become particularly obvious in decisions as to whether a domestic situation (such as widespread violations of human rights) constituted a "threat to the peace." In the early twenty-first century, many observers justify the Council's involvement in such cases by reference to the "responsibility to protect" (R2P) principle. The Council's practice, however, has been inconsistent and essentially determined by the strategic interests of its permanent members. It is to be noted that determinations under Article 39—that may trigger the use of armed force—are final, since there is no mechanism of judicial review for binding decisions of the Security Council. When acting under Chapter VII, the Council effectively operates outside a system of checks and balances.

International Criminal Justice. The ban on the use of force under the UN Charter is backed up by the emerging system of international criminal justice, a set of norms and procedures—in the tradition of the

war-crimes tribunals established after World War II—that are meant to bring an end to impunity for international crimes. Subsequent to the resolution of the Review Conference of the States Parties of the International Criminal Court (ICC) adopted in Kampala, Uganda, on 11 June 2010, that institution will in the future be able to exercise jurisdiction also over the crime of aggression. While the Security Council's coercive powers are aimed at undoing the consequences of aggression or deterring the illegal use of force at the level of states, international criminal justice is essentially meant, at the level of personal criminal responsibility, to prevent decisions on the illegal use of force by the political and military leaders of states. The role of the ICC is, as of 2013, still in its initial phase, because most of the major military powers, including three out of five permanent members of the Security Council (China, Russia, United States), have not acceded to the Statute of the Court. The situation is even more problematic because of the right of the Security Council, under the Court's Statute, to "refer" situations (Article 13[b]) to the ICC and to "defer" an investigation or prosecution for the renewable period of one year (Article 16).

Assessment and Prospects. Under modern international law, the use of force by states is subjected to a strict set of rules. The provisions for the implementation of the ban according to Article 2(4) of the UN Charter are inconsistent and incomplete, however. While the unilateral use of force—except by way of reactive violence (self-defense according to Article 51)—is excluded under all circumstances, the rules for the multilateral use of force by, or on behalf of, the UN Security Council are characterized by a rather wide margin of interpretation that invites arbitrariness and abuses of their enforcement powers, particularly by the Council's permanent members.

Hiatus between Legal and Sociopolitical Level. The legal ban on the use of force is in sharp contrast to the role of violence in the popular culture, and in particular in the entertainment industry, in many countries. The heroization of war, as "just war," in many societies—whereby "just cause" is often determined by national interests—has also

contributed to the impression of war as *ultima ratio* (last resort) of politics, notwithstanding the provisions of the UN Charter.

Measures of Reform. If the international use of force is to be brought into conformity with the rule of law, the respective legal provisions should be consistent and comprehensive. This would, among other measures, necessitate (a) a substantial reform of the United Nations Charter, including the abrogation of the veto privilege of the permanent members of the Security Council (a measure that would run parallel to the democratization of the world organization), and (b) the establishment of a system of international criminal justice that is truly universal, which means that the most powerful states should also join the ICC. A credible ban on the unilateral use of force requires an effective deterrent not only at state level (which is meant to be ensured by the coercive powers of the Security Council), but also at the level of individual criminal responsibility.

[See also Arms Control; and War.]

BIBLIOGRAPHY

- Arend, Anthony C., and Robert J. Beck. *International Law and the Use of Force: Beyond the UN Charter Paradigm*. (London and New York, 1993).
- Art, Robert J., and Kenneth N. Waltz, eds. *The Use of Force: Military Power and International Politics*, 7th ed. (Lanham, Md., 2009).
- Brownlie, Ian. *International Law and the Use of Force by States*. (Oxford, U.K., 1963).
- Cassese, Antonio, ed. *The Current Legal Regulation of the Use of Force*. (Dordrecht, the Netherlands, and Boston, 1986).
- Charter of the United Nations and Statute of the International Court of Justice*. United Nations, New York.
- Clausewitz, Carl von. *On War*. New and revised edition by F. N. Maude. (Harmondsworth, U.K., 1968). (First German edition 1832).
- Gray, Christine D. *International Law and the Use of Force*, 3rd ed. (Oxford, U.K., and New York, 2008).
- Johnson, James Turner. *Ethics and the Use of Force: Just War in Historical Perspective*. (Farnham, U.K., and Burlington, Vt., 2011).
- Köchler, Hans, ed. *The Use of Force in International Relations: Challenges to Collective Security*. Studies in International Relations 29 (Vienna, 2006).

- Malanczuk, Peter. *Humanitarian Intervention and the Legitimacy of the Use of Force*. (Amsterdam, 1993).
- Morgenthau, Hans. *Politics among Nations: The Struggle for Power and Peace*. 6th ed., revised by Kenneth W. Thompson. (New York, 1985).
- Simma, Bruno. "NATO, the UN and the Use of Force: Legal Aspects." *European Journal of International Law* 10 (1999): 1–22.
- Treaty of Peace between the Allied and Associated Powers and Germany signed at Versailles, June 28th, 1919* (Treaty of Versailles) (London, 1919).
- Weisburd, A. Mark. *Use of Force: The Practice of States since World War II*. (University Park, Pa., 1997).

Hans Köchler

FOREIGN AID

Foreign aid, technically called Official Development Assistance (ODA), is defined by the Organization for Economic Co-operation and Development's (OECD) Development Assistance Committee (DAC) as consisting of grants or concessional loans (with at least a 25 percent grant element) that (a) originate in the official sector, (b) are destined for low- or middle-income countries, and (c) have as their principal aim the promotion of economic development and welfare. The last point implies that expenditures that primarily follow commercial goals or are directed at military purposes should not qualify as ODA. It consists of financial flow, as well as in-kind assistance. ODA can be directed to recipient-country governments (Budget Support), spent directly on specific interventions in the recipient country (Project Support), or channeled through multilateral organizations (e.g., the World Bank). The OECD estimates that total ODA (measured as net disbursements) in 2010 amounted to \$148 billion USD. Typically, 25–30 percent of total ODA is channeled through multilateral donors.

Foreign aid is often described as having originated with the post-World War II reconstruction of Europe, and especially the Marshall Plan in 1947. While this may be technically correct, and in the early twenty-first century calls for increases in foreign aid are often presented as the need for a new Marshall Plan, there are obvious differences between

the reconstruction of developed economies ravaged by war and putting a low-income country on a sustained-growth path. Nonetheless, starting in the 1950s, with the advent of decolonization, early foreign aid efforts saw the success in Europe as a vindication of the predominant theories on economic development of the day, which stressed the need for rapid capital accumulation. A second phase of foreign aid policy can be identified starting in the early and mid-1970s and running to the end of the Cold War. In light of the apparent failure of earlier aid efforts, bad policies in aid-recipient countries were identified as the source of the problem, and became the focus of the new approach. This phase was dominated by conditional lending, trying to establish what came to be known as the Washington Consensus policies. The end of the Cold War saw a precipitous drop in foreign aid efforts, largely because its principal foreign policy rationale ceased to exist, but also because the policy-oriented approach did not produce the hoped-for results either. Since the early 2000s, foreign aid has started to increase again. At the same time, the academic debate has shifted toward seeing institutions as the principal determinant of economic performance. As institutions, by definition, are changing only slowly, the idea that foreign aid is instrumental to putting poor countries on a sustained-growth path has been abandoned in many quarters. Most of current aid efforts focus instead on poverty alleviation and the provision of basic services, such as health and education, to the most vulnerable.

Theories. While there have been a few successes in foreign aid, most notably in the area of health, few observers dispute that overall it has a disappointing track record. The debate rather centers on whether foreign aid has just been badly delivered or if it is inherently incapable of providing its intended results. Proponents of foreign aid maintain that thus far it has failed to deliver the expected results because donor countries' foreign-policy objectives have trumped development goals, as demonstrated by the sharp decline in ODA after the end of the Cold War. They argue that once effectively delivered, foreign aid has the potential to significantly reduce