

# DEFENDING HUMANITY

When Force Is Justified and Why

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GEORGE P. FLETCHER & JENS DAVID OHLIN



# Defending Humanity When Force Is Justified And Why

**Gregory A. Raymond**



## **Defending Humanity When Force Is Justified And Why:**

**Defending Humanity** George P. Fletcher, Jens David Ohlin, 2008-03-18 Recoge Murder among nations How to talk about self defense A theory of legitimate defense The six elements of legitimate defense Excusing international aggression Humanitarian intervention Preemptive and preventive wars The collective dimension of war Defending Humanity George P. Fletcher, Jens David Ohlin, 2013-02-01 In *Defending Humanity* internationally acclaimed legal scholar George P. Fletcher and Jens David Ohlin a leading expert on international criminal law tackle one of the most important and controversial questions of our time When is war justified When a nation is attacked few would deny that it has the right to respond with force But what about preemptive and preventive wars or crossing another state's border to stop genocide Was Israel justified in initiating the Six Day War and was NATO's intervention in Kosovo legal What about the U.S. invasion of Iraq In their provocative book Fletcher and Ohlin offer a groundbreaking theory on the legality of war with clear guidelines for evaluating these interventions The authors argue that much of the confusion on the subject stems from a persistent misunderstanding of the United Nations Charter The Charter appears to be very clear on the use of military force it is only allowed when authorized by the Security Council or in self defense Unfortunately this has led to the problem of justifying force when the Security Council refuses to act or when self defense is thought not to apply and to the difficult dilemma of declaring such interventions illegal or ignoring the UN Charter altogether Fletcher and Ohlin suggest that the answer lies in going back to the domestic criminal law concepts upon which the UN Charter was originally based in particular the concept of legitimate defense which encompasses not only self defense but defense of others Lost in the English language version of the Charter but a vital part of the French and other non English versions the concept of legitimate defense will enable political leaders courts and scholars to see the solid basis under international law for states to intervene with force not just to protect themselves against an imminent attack but also to defend other national groups **The Ethics of War and Peace** Helen Frowe, 2013-03 When is it right to go to war When is a war illegal What are the rules of engagement What should happen when a war is over How should we view terrorism *The Ethics of War and Peace* is a fresh and contemporary introduction to one of the oldest but still most relevant ethical debates It introduces students to contemporary Just War Theory in a stimulating and engaging way perfect for those approaching the topic for the first time Helen Frowe explains the core issues in Just War Theory and chapter by chapter examines the recent and ongoing philosophical debates on theories of self defence and national defence Jus ad Bellum Jus in Bello and Jus post Bellum the moral status of combatants the principle of non combatant immunity the nature of terrorism and the moral status of terrorists Each chapter concludes with a useful summary discussion questions and suggestions for further reading to aid student learning and revision *The Ethics of War and Peace* is the ideal textbook for students studying philosophy politics and international relations The Persistent Advocate and the Use of Force Christian Henderson, 2016-02-24 This book provides a comprehensive dispassionate empirical analysis

and assessment of the discernible impact that the US has had upon the jus ad bellum in the post Cold War era The work focuses on the substantive areas of the jus ad bellum with which the US has most often and significantly engaged with through either its actions justifications for actions or adopted policies In doing so it draws upon the theory of interpretive communities as its framework of analysis in order to gauge any impact upon this fundamental area of international law The Persistent Advocate and the Use of Force provides a much needed examination of one of the most controversial issues of international law in recent times whilst on a more general level offering a timely defence of the robustness of the jus ad bellum to the practice of powerful states

**The Grammar of Criminal Law** George P. Fletcher, 2019-09-30 To understand the international legal order in the field of criminal law we need to ask three elementary questions What is international law What is criminal law And what happens to these two fields when they are joined together Volume Two of The Grammar of Criminal Law sets out to answer these questions through a series of twelve dichotomies such as law vs justice intention vs negligence and causation vs background events that invite the reader to better understand the jurisprudential foundations of international criminal law The book will appeal to anyone interested in the future of international cooperation in a time of national retrenchment and will be of interest to students scholars and policymakers around the world

**Human Rights and Personal Self-defense in International Law** Jan Arno Hessbruegge, 2017 While an abundance of literature covers the right of states to defend themselves against external aggression this is the first book dedicated to the right to personal self defense in international law Dr Hessbruegge sets out in careful detail the strict requirements that human rights impose on defensive force by law enforcement authorities especially police killings in self defense The book also discusses the exceptional application of the right to personal self defense in military led operations notably to contain violent civilians who do not directly participate in hostilities The author establishes that international law gives individuals the right to forcibly resist human rights violations that pose a serious risk of significant and irreparable harm At the same time he calls into question prevailing state practice which fails to recognize any collective right to organized armed resistance even when it constitutes the last resort to defend against genocide or other mass atrocities

Warfare Ethics in Comparative Perspective Sumner B. Twiss, Ping-cheung Lo, Benedict S. B. Chan, 2024-04-11 This volume explores East Asian intellectual traditions and their influence on contemporary discussions of the ethics of war and peace Through cross cultural comparison and dialogue between East and West this work charts a new trajectory in the development of applied ethics A sequel to the volume Chinese Just War Ethics it expands the range of the earlier work and includes attention to Japan and other Eastern and Western traditions for contrastive reflection and engages with the full range of Chinese intellectual traditions for comparative analysis The book scrutinizes pioneering works such as the Mengzi the Han Feizi and the Seven Military Classics investigating their influence in subsequent times It also engages with new texts and thinkers such as the Four Books of the Yellow Emperor Zeng Guofan Chiang Kai shek and Mao Zedong along with examining recent writings of the scholars of

the People's Liberation Army The final section of the book identifies and discusses some emerging issues in the comparative study of military ethics just war and peace that derive from the preceding sections The volume editors then offer some concluding remarks at the end of the book This book will be of much interest to students of the ethics of war and peace just war theory military ethics Asian studies and International Relations in general **War, Aggression and Self-Defence**

Yoram Dinstein, 2017-09-28 Yoram Dinstein's influential War Aggression and Self Defence is an indispensable guide to the international legal issues of war and peace **Military Assistance on Request and the Use of Force** Erika De

Wet, 2020-03-26 In countries such as Syria Iraq South Sudan and Yemen internationally recognized governments embroiled in protracted armed conflicts and with very little control over their territory have requested direct military assistance from other states These requests are often accepted by the other states despite the circumvention of the United Nations Security Council and extensive violation of international humanitarian law and human rights In this book Erika De Wet examines the authority entitled to extend a request for or consent to direct military assistance as well as the type of situations during which such assistance may be requested notably whether it may be requested during a civil war Ultimately De Wet addresses the question of if and to what extent the proliferation of military assistance on the request of a recognized government is changing the rules in international law applying to the use of force **George Fletcher's Essays on Criminal Law** George

P. Fletcher, 2013-01-10 This volume collects for the first time a selection of criminal law scholar George Fletcher's most famous previously published shorter works as well as some that are less known but equally important Each of the twelve essays by Fletcher is paired with one or more new critical commentaries on that essay These critical commentaries trace the impact of the respective essay in the development of the criminal law and assess its future significance *International Law, New Diplomacy and Counterterrorism* Steven J. Barela, 2014-03-05 This interdisciplinary book explores how terrorism is

meant to target a government's legitimacy and advocates for sounder defensive measures when countering international attacks The dramatic increase in global cooperation throughout the twentieth century between international organisations and their state missions of diplomats foreign officers international civil servants intelligence officers military personnel police investigators judges legislators and financial regulators has had a bearing on the shape and content of the domestic political order The rules that govern all of these interactions and the diplomats engaged to monitor and advocate for compliance have undergone a mushrooming development following the conclusion of each world war This dramatic growth is arguably the most significant change the international structure has experienced since the inception of the state based system ushered in with the Peace of Westphalia in 1648 *International Law New Diplomacy and Counterterrorism* explores the impact of this growth on domestic legitimacy through the integration of two disciplines international law and political philosophy Focusing particularly on the cross border counterterrorism actions launched by the United States the author investigates how civil societies have often turned to the standards of international law to understand and judge the legitimacy of their government

s counterterrorism policies reaching across international borders The book concludes that those who craft counterterrorism policies must be attentive to defending the target of legitimacy by being wholly mindful of the realms of legality morality and efficacy when exercising force This book will be of much interest to students of international law diplomacy counterterrorism political philosophy security studies and IR

*The Ethics of War and the Force of Law* Uwe Steinhoff, 2020-11-25 This book provides a thorough critical overview of the current debate on the ethics of war as well as a modern just war theory that can give practical action guidance by recognizing and explaining the moral force of widely accepted law Traditionalist Walzerian and revisionist approaches have dominated contemporary debates about the classical jus ad bellum and jus in bello requirements in just war theory In this book Uwe Steinhoff corrects widely spread misinterpretations of these competing views and spells out the implications for the ethics of war His approach is unique in that it complements the usual analysis in terms of self defense with an emphasis on the importance of other justifications that are often lumped together under the heading of lesser evil It also draws on criminal law and legal scholarship which has been largely ignored by just war theorists Ultimately Steinhoff rejects arguments in favor of moral fundamentalism the view that the laws and customs of war must simply follow an immutable morality In contrast he argues that widely accepted laws and conventions of war are partly constitutive of the moral rules that apply in a conflict *The Ethics of War and the Force of Law* will be of interest to scholars and advanced students working in just war theory applied ethics political philosophy political theory philosophy of law and criminal and military law

**International Norms and the Resort to War** Gregory A. Raymond, 2020-08-27 This book offers a fresh perspective on timeless questions concerning anarchy and order power and principle and public and private morality by taking a novel approach to the study of the onset of war Rather than looking at the distribution of wealth military might or other material capabilities to explain the onset of war this book focuses instead on how international norms affect the use of military force Critical of the realist assumption that international legal norms are unable to curb hostilities without a powerful central authority to enforce their injunctions it contends that the normative context within which national leaders act sets the tone for world politics by communicating commonly accepted understandings about the limits of permissible action Using quantitative analyses of the relationships between war initiation norms and various types of armed conflict the author calls into question realist beliefs regarding international norms demonstrating that restrictive normative orders reduce the likelihood of war

**The Use of Force in International Law** Tom Ruys, Olivier Corten, Alexandra Hofer, 2018-04-26 The international law on the use of force is one of the oldest branches of international law It is an area twinned with the emergence of international law as a concept in itself and which sees law and politics collide The number of armed conflicts is equal only to the number of methodological approaches used to describe them Many violent encounters are well known The Kosovo Crisis in 1999 and the US led invasion of Iraq in 2003 spring easily to the minds of most scholars and academics and gain extensive coverage in this text Other conflicts including the Belgian operation in Stanleyville and the

Ethiopian Intervention in Somalia are often overlooked to our peril Ruys and Corten's expert written text compares over sixty different instances of the use of cross border force since the adoption of the UN Charter in 1945 from all out warfare to hostile encounters between individual units targeted killings and hostage rescue operations to ask a complex question How much authority does the power of precedent really have in the law of the use of force

**Beyond Global Crisis** Terrence Edward Paupp, 2017-09-29 In this volume Terrence Paupp critically describes the various dimensions of today's global crisis Among other things this volume analyzes nuclear weapons proliferation climate change and international lawlessness in the form of wars of aggression Paupp argues that much human conflict and environmental degradation is the direct consequence of poverty and inequality Until these issues are addressed many of the world's problems will remain Paupp asserts that around the world peoples and nations are becoming more open to a strategy and culture of peace that evolves through discovering a commonality of interests the value of mutual cooperation and the desirability of forging consensus By using various road maps and remedies supplied by noted Japanese peace activist Daisaku Ikeda and his contemporaries viable solutions will emerge In this new endeavor equipped with some of the proposed solutions and strategies that this book provides humanity will collectively become engaged in remaking the character of global governance in order to build a global culture of peace

Brierly's Law of Nations Andrew Clapham, 2012-08-09 This concise book is an introduction to the role of international law in international relations Written for lawyers and non lawyers alike the book first appeared in 1928 and attracted a wide readership This new edition builds on Brierly's scholarship and his idea that law must serve a social purpose Previous editions of The Law of Nations have been the standard introduction to international law for decades and are widely popular in many different countries due to the simplicity and brevity of the prose style Providing a comprehensive overview of international law this new version of the classic book retains the original qualities and is again essential reading for all those interested in learning what role the law plays in international affairs The reader will find chapters on traditional and contemporary topics such as the basis of international obligation the role of the UN and the International Criminal Court the emergence of new states the acquisition of territory the principles covering national jurisdiction and immunities the law of treaties the different ways of settling international disputes and the rules on resort to force and the prohibition of aggression

**The Use of Force and International Law** Christian Henderson, 2023-11-09 Newly revised this textbook provides an authoritative conceptual and practical overview of international law governing the resort to force Following an introductory chapter with a section on the key issues in identifying the law and actual and potential changes to it the book addresses the breadth and scope of the prohibition of the threat or use of force and the meaning of force as the focus of this The book proceeds to address the use of force through the United Nations and regional organisations the use of force in peacekeeping operations the right of self defence and the customary limitations upon this right the controversial right of humanitarian intervention and forcible interventions in civil conflicts Updated to include greater focus on aspects such as cyber operations

the threat of force and the human element to the use of force as well as the inclusion of recent developments such as the 2022 Russian invasion of Ukraine it seeks to address the contemporary legal framework through the prism of contemporary challenges that it currently faces

**International Humanitarian Law and International Human Rights Law** Orna Ben-Naftali, 2011-01-13 Examining the complex relationship between international human rights and humanitarian law this volume explores the potential for fusing the two regimes into a new legal paradigm

*Faith, Force, and Reason* David M. Beatty, 2022-03-31 *Faith Force and Reason* follows the evolution of the rule of law from its birth in the marshes of Mesopotamia over 4 000 years ago to its battle against apartheid in South Africa in the last twenty five years It is recounted through the voices of emperors and kings judges and jurists and popes and philosophers who have thought about what the rule of law is all about and how it works All of law s most momentous achievements Justinian s Corpus Juris Civilis the Magna Carta and the American Bill of Rights and most celebrated advocates Plato and Aristotle Cicero Aquinas Edward Coke Hugo Grotius and John Marshall are featured So are law s darkest moments the trial of Socrates the burning and beheading of witches and heretics the persecution of Jews and the proclamation of Lex Regia which legalized the dictatorial powers of Roman emperors and medieval kings *Faith Force and Reason* challenges readers to think about the lessons of the history they have read What does the rule of law mean in our own time What does it demand of us as well as our political leaders

**Advanced Introduction to International Conflict and Security Law** Nigel D. White, 2023-03-02 This updated and revised second edition of *Advanced Introduction to International Conflict and Security Law* provides a concise and insightful guide to the key principles of international law governing peacetime security arms control the use of force armed conflict and post conflict situations Nigel D White explores the complex legal regimes that have been created to control levels of armaments to limit the occasions when governments can use military force to mitigate the conduct of warfare and to build peace



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