Introduction

This book examines collective self-defence in international law. Article 51 of the 1945 Charter of the United Nations (UN) sanctifies the modern legal concept of self-defence, setting out 'the inherent right of individual *or collective* self-defence if an armed attack occurs . . .'[1] The Charter thus designates individual and collective self-defence, together, as a single legal 'right', which is 'inherent'.[2] In so doing, it firmly established the place of collective self-defence within contemporary international law.[3]

0.1 The Subject of This Study and the Rationale for Undertaking It

The core concept of collective self-defence can be broadly defined as the use of military force by one or more states in response to an external attack[4] that has occurred or is occurring[5] against another state.

[1] Charter of the United Nations (1945) 1 UNTS XVI (UN Charter), Article 51 (emphasis added). In full, the article reads: '[n]othing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security'.

[2] On the indivisible nature of self-defence as a single 'right' within Article 51, see, for example, Eugene V. Rostow, 'Until What? Enforcement Action or Collective Self-Defense' (1991) 85 *American Journal of International Law* 506, 510. For more on the status of collective self-defence as a *right* (and, indeed, as an *inherent* right), see Section 1.3. For discussion of the 'conjoining' of individual and collective self-defence that resulted from their inclusion in Article 51 of the UN Charter, see Section 2.4.

[3] See Section 2.4 for further discussion of the effect of Article 51 in this regard.

[4] This was traditionally considered to be an attack launched by a state. However, now, it arguably may also include attacks by non-state actors in certain circumstances. On the controversial question of collective self-defence against attacks by non-state actors, see Section 3.2.4.

[5] This arguably may also include attacks that will imminently occur. On the question of collective self-defence against imminent attacks, see Section 3.2.3.

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Put even more simply: 'collective self-defence [exists] to assist third parties in countering an armed attack'.[6] This is, of course, in contrast to individual self-defence, which involves what one might more intuitively think of as 'self-defence' in the international context: that is, a state defending *itself* from attack.

While the basic notion of 'collective self-defence' can be relatively easily stated, delineating it any further quickly runs into problems.[7] Scholars who have scratched the surface of the concept, even tentatively, have described collective self-defence as being 'rather puzzling'[8] and 'not easily comprehensible'.[9] Despite its prominence in Article 51 of the UN Charter, 'collective self-defence' is not defined therein,[10] nor is it authoritatively defined elsewhere in international legal doctrine.

Moreover, it has often been claimed that collective self-defence had no historical 'pedigree' before 1945, and therefore that it was a new legal creation by the drafters of the UN Charter.[11] This can be contrasted to individual self-defence, many of the core features of which – it is widely accepted – can be traced back centuries.[12] For *individual* self-defence,

[6] Simona Ross, 'U.S. Justifications for the Use of Force in Syria through the Prism of the Responsibility to Protect' (2021) 8 *Journal on the Use of Force and International Law* 233, 237. See also A. J. Thomas Jr. and Ann Van Wynen Thomas, 'The Organization of American States and Collective Security' (1959) 13 *Southwestern Law Journal* 177, 186 ('collective self-defense is action taken by States not directly the victims of an armed attack').

[7] See Chapter 1 for discussion and for a detailed attempt to try to delineate the concept.

[8] Arthur Eyffinger, 'Self-Defence or the Meanderings of a Protean Principle', in Arthur Eyffinger, Alan Stephens and Sam Muller (eds.), *Self-Defence as a Fundamental Principle* (The Hague, Hague Academic Press, 2009), 103, 128.

[9] Yoram Dinstein, *War, Aggression and Self-Defence* (Cambridge, Cambridge University Press, 6th ed., 2017), 301.

[10] See Derek W. Bowett, 'Collective Self-Defence under the Charter of the United Nations' (1955–1956) 32 *British Yearbook of International Law* 130, 130.

[11] See, for example, *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v. United States of America*) (merits) [1986] ICJ Rep. 14, dissenting opinion of Judge Jennings, 530–531; R. St. J. MacDonald, 'The *Nicaragua* Case: New Answers to Old Questions' (1986) 24 *Canadian Yearbook of International Law* 127, 143, 146; Rosalyn Higgins, *The Development of International Law through the Political Organs of the United Nations* (London, Oxford University Press, 1963), 208; Christian Henderson, *The Use of Force and International Law* (Cambridge, Cambridge University Press, 2018), 260; D.W. Greig, 'Self-Defence and the Security Council: What Does Article 51 Require?' (1991) 40 *International and Comparative Law Quarterly* 366, 373; Thomas M. Franck, *Recourse to Force: State Action against Threats and Armed Attacks* (Cambridge, Cambridge University Press, 2002), 48–49.

[12] See, for example, Stephen C. Neff, *War and the Law of Nations: A General History* (Cambridge, Cambridge University Press, 2005), 126–130.

there is a wealth of pre-UN doctrine and practice upon which one can draw to put legal 'meat' on the 'bones' of its central concept. This is not the case (at least, not in the same way or to the same extent) for collective self-defence. That said, the claim that collective self-defence was an entirely 'new' concept in 1945 is incorrect. In fact, it too has historical roots stretching back as far as recorded history.[13] It is true, though, that the notion of 'collective defence' in international law was substantially changed by the adoption of the UN Charter,[14] meaning that analysis of the historical development of the concept is indeed of less value in understanding the modern concept than is the case for its 'individual' twin.[15]

Another common assertion regarding collective self-defence is that it also 'has been little used in practice' *since* the creation of the United Nations in 1945.[16] There is a perception that for most of the UN era, collective self-defence has been an almost semi-dormant concept, invoked by states only extremely rarely. While a large number of collective self-defence treaty arrangements have continued to emerge,[17] this has 'not been matched by extensive state practice'.[18] This claim, too, is correct up to a point. Certainly, as compared to individual self-defence – which has been invoked by states almost ubiquitously since 1945[19] – collective self-defence has been advanced less often as a legal justification for the use of force in practice. There have been notably more examples of collective self-defence claims made by states in the UN era than is often perceived in the scholarship, however.[20]

[13] M. A. Weightman, 'Self-Defense in International Law' (1951) 37 *Virginia Law Review* 1095, 1110. See, generally, Chapter 2.

[14] See Section 2.4.

[15] This is certainly not to say that there is no value in so doing – as will be seen from the analysis in Chapter 2 – only that, in this writer's view, the 'history' of collective self-defence tells us less about the right today than does the 'history' of individual self-defence.

[16] Christine Chinkin and Mary Kaldor, *International Law and New Wars* (Cambridge, Cambridge University Press, 2017), 140. See also, for example, Christine Gray, *International Law and the Use of Force* (Oxford, Oxford University Press, 4th ed., 2018), 176.

[17] See Chapter 7.

[18] Gray, n.16, 176.

[19] See *ibid*, 121; Chris O'Meara, *Necessity and Proportionality and the Right of Self-Defence in International Law* (Oxford, Oxford University Press, 2021), 1: Rosalyn Higgins, 'The Legal Limits to the Use of Force by Sovereign States: United Nations Practice' (1961) 37 *British Yearbook of International Law* 269, 297.

[20] See Jaemin Lee, 'Collective Self-Defense or Collective Security: Japan's Reinterpretation of Article 9 of the Constitution' (2015) 8 *Journal of East Asia and International Law* 373, 374 ('[i]t is *not uncommon* for a State (A) to invoke collective self-defense to justify their

Indeed, recent years have seen an unprecedented increase in the number of collective self-defence actions (or, at least, purported collective self-defence actions) undertaken by states. In particular, collective self-defence has been the primary legal justification advanced by the US-led coalition for ongoing military action in Syria since 2014 (on the basis that these states are acting in the defence of Iraq in response to attacks by the 'Islamic State of Iraq and the Levant' (ISIL)). This arguably represents the most extensive appeal to the legal notion of collective self-defence *ever*, with ten different coalition states separately invoking it.[21] In the years since, collective self-defence has continued to be used (and abused) as a

military actions against another State (B) that has invaded yet the third State (C)', emphasis added); Oscar Schachter, *International Law in Theory and Practice* (Dordrecht, Martinus Nijhoff, 1991), 155 (arguing that the right of collective self-defence has ultimately 'emerged as a major legal justification for military action by States outside of their own territories').

[21] See Letter dated 10 December 2015 from the Chargé d'affaires a.i. of the Permanent Mission of Germany to the United Nations addressed to the President of the Security Council, UN Doc. S/2015/946 (10 December 2015); Letter dated 11 January 2016 from the Permanent Representative of Denmark to the United Nations addressed to the President of the Security Council, UN Doc. S/2016/34 (13 January 2016); Letter dated 7 June 2016 from the Permanent Representative of Belgium to the United Nations addressed to the President of the Security Council, UN Doc. S/2016/523 (9 June 2016); Letter dated 9 September 2015 from the Permanent Representative of Australia to the United Nations addressed to the President of the Security Council, UN Doc. S/2015/693 (9 September 2015); Letter dated 10 February 2016 from the Chargé d'affaires a.i. of the Permanent Mission of the Netherlands to the United Nations addressed to the President of the Security Council, UN Doc. S/2016/132 (10 February 2016); Letter dated 3 June 2016 from the Permanent Representative of Norway to the United Nations addressed to the President of the Security Council UN Doc. S/2016/513 (3 June 2016); Identical letters dated 25 November 2014 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc. S/2014/851 (26 November 2014); Letter dated 7 September 2015 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council, UN Doc. S/2015/688 (8 September 2015); Letter dated 3 December 2015 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council, UN Doc. S/2015/928 (3 December 2015); Letter dated 31 March 2015 from the Chargé d'affaires a.i. of the Permanent Mission of Canada to the United Nations addressed to the President of the Security Council, UN Doc. S/2015/221 (31 March 2015); Letter dated 23 September 2014 from the Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General, UN Doc. S/2014/695 (23 September 2014); Identical letters dated 8 September 2015 from the Permanent Representative of France to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc. S/2015/745 (9 September 2015).

legal justification by states more often than was previously the case. One might note, for example, Turkey alluding to the concept in relation to the military support it provided to Azerbaijan in the context of the Nagorno-Karabakh conflict in 2020,[22] the explicit invocation of the right by both the Collective Security Treaty Organisation (CSTO)[23] and Kazakhstan[24] in relation to the dispatch of troops by the former into the territory of the latter in January 2022,[25] and the appeal to collective self-defence made by Armenia in September 2022.[26] Another high-profile recent example, of course, is that Russia advanced collective self-defence as one of the purported legal justifications for its full-scale invasion of Ukraine in February 2022.[27] Collective self-defence is also arguably engaged by the *response* of the North Atlantic Treaty Organization (NATO) (and other states) to Russia's invasion[28] and certainly would be the basis for more

[22] See Statement of the Spokesperson of the Ministry of Foreign Affairs, Mr. Hami Aksoy, in Response to a Question Regarding the Armenian Attacks on Azerbaijan Which Started This Morning, Republic of Türkiye, Ministry of Foreign Affairs, QA-94 (27 September 2020), www.mfa.gov.tr/sc_-94_-ermenistan-in-azerbaycan-a-karsi-baslattigi-saldiri-hk-sc.en.mfa. For discussion, see Ella Schönleben, 'Collective Self-Defence or Just Another Intervention?: Some Thoughts on Turkey Allegedly Sending Syrian Mercenaries to Nagorno-Karabakh', *Völkerrechtsblog* (2 November 2020), https://voelkerrechtsblog.org/de/collective-self-defence-or-just-another-intervention.

[23] See 'Session of CSTO Collective Security Council', Office of the President of the Russian Federation (10 January 2022), http://en.kremlin.ru/events/president/news/67568.

[24] See UNSC Verbatim Record, UN Doc. S/PV.8967 (16 February 2022), 20–21 (Kazakhstan).

[25] See, generally, Fyodor A. Lukyanov, 'Kazakhstan Intervention Sees Russia Set a New Precedent', *Russia in Global Affairs* (7 January 2022), https://eng.globalaffairs.ru/articles/kazakhstan-new-precedent.

[26] See 'Armenia Asked CSTO for Military Support to Restore Territorial Integrity Amid Azeri Attack – PM', *Armen Press* (14 September 2022), https://armenpress.am/eng/news/1092504.

[27] See 'Address by the President of the Russian Federation', Office of the President of the Russian Federation (24 February 2022), http://en.kremlin.ru/events/president/transcripts/67843 (official English translation, as published by the Kremlin); Обращение Президента Российской Федерации, Президент России (24 февраля 2022 года), http://kremlin.ru/events/president/news/67843 (original Russian text, as published by the Kremlin). This address was also annexed (in a somewhat different English translation) to Letter dated 24 February 2022 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General, UN Doc. S/2022/154 (24 February 2022). For discussion, see James A. Green, Christian Henderson and Tom Ruys, 'Russia's Attack on Ukraine and the *Jus ad Bellum*' (2022) 9 *Journal on the Use of Force and International Law* 4, 17–21.

[28] For analysis, see Section 1.4.

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'robust' NATO action to defend Ukraine, should it ever be taken.[29] Overall, it may be said that the right of collective self-defence – and how it is to be applied as a matter of international law – is of particular importance at the time of writing.

However, perhaps as a result of perceptions that it has been rarely used and has a limited historical pedigree, there has been relatively little academic analysis of the legal concept of collective self-defence throughout the UN era, and this remains the case today.[30] One might note, for example, the hugely impressive and influential *Oxford Handbook on the Use of Force in International Law*, which was published in 2015.[31] That volume has a whopping fifty-seven chapters covering the *jus ad bellum* in significant depth and from an array of perspectives but contains no chapter dedicated specifically to collective self-defence. There is certainly a lot of important scholarship examining collective self-defence, of course, but this has tended to form an aspect of a larger work on self-defence *in toto* or the wider *jus ad bellum*[32] or has focused on a particular aspect of the concept[33] rather than engaging with it more

[29] See Pavel Doubek, 'War in Ukraine: Time for a Collective Self-Defense?', *Opinio Juris* (29 March 2022), http://opiniojuris.org/2022/03/29/war-in-ukraine-time-for-a-collective-self-defense.

[30] This is in contrast to the law governing individual self-defence, where a vast literature has developed and is continually expanding. See Christopher Greenwood, 'Self-Defence', in Rüdiger Wolfrum (ed.), *Max Planck Encyclopaedia of Public International Law, vol. IX* (Oxford, Oxford University Press, 2012), 103, 113, para. 52 (providing a useful select bibliography of some of the key works, although it is important to be aware that the literature on the subject is truly huge).

[31] Marc Weller (ed.), *The Oxford Handbook of the Use of Force in International Law* (Oxford, Oxford University Press, 2015).

[32] See, for example, Dinstein, n.9, 301–327; Gray, n.16, 176–199; Henderson, n.11, 256–262; Tom Ruys, *'Armed Attack' and Article 51 of the UN Charter: Evolutions in Customary Law and Practice* (Cambridge, Cambridge University Press, 2010), 83–91; Derek W. Bowett, *Self-Defense in International Law* (Manchester, Manchester University Press, 1958), 200–248; Ian Brownlie, *International Law and the Use of Force by States* (Oxford, Oxford University Press, 1963), 328–331.

[33] See, for example, Sia Spiliopoulou Åkermark, 'The Puzzle of Collective Self-Defence: Dangerous Fragmentation or a Window of Opportunity? An Analysis with Finland and the Åland Islands as a Case Study' (2017) 22 *Journal of Conflict and Security Law* 249; Domingo E. Acevedo, 'Collective Self-Defense and the Use of Regional or Subregional Authority as Justification for the Use of Force' (1984) 78 *American Society of International Law Proceedings* 69; George K. Walker, 'Anticipatory Collective Self-Defense in the Charter Era: What the Treaties Have Said' (1998) 31 *Cornell International Law Journal* 321; Marko Svicevic, 'Collective Self-Defence or Regional Enforcement Action: The Legality of a SADC Intervention in Cabo Delgado and the

holistically.[34] As far as the present author is aware, there have been no monograph-length works devoted to collective self-defence prior to the present one.

More importantly, while states have advanced collective self-defence claims throughout the UN era, and *especially* over the last decade, there has been relatively little consideration of the nature and regulation of the concept by states themselves (or intergovernmental bodies/organisations) in a general sense. To the extent that states discuss collective self-defence, this has for the most part been restricted to arguments regarding the exercise of it (or purported exercise of it) in specific instances. As far back as 1965, the then chairperson of the UN General Assembly, Mr Abdullah El-Erian of the United Arab Republic, noted that '[t]he idea of legitimate collective self-defence deserves more thorough study'.[35] More than twenty-five years later, writing in the *American Journal of International Law*, Oscar Schachter made the same point, arguing that there was a:

> need for further consideration by the [UN Security] Council and other appropriate bodies of the requirements of legitimate collective self-defense and of the role of the Council under Article 51. Up to now, this subject has not received much attention.[36]

Yet, a further thirty plus years on, collective self-defence continues to be marginalised in state thinking about self-defence. One might, for

Question of Mozambican Consent' (2022) 9 *Journal on the Use of Force and International Law* 138; Patrick Terry, 'Germany Joins the Campaign against ISIS in Syria: A Case of Collective Self-Defence or Rather the Unlawful Use of Force?' (2016) 4 *Russian Law Journal* 26; James A. Green 'The "Additional" Criteria for Collective Self-Defence: Request but Not Declaration' (2017) 4 *Journal on the Use of Force and International Law* 4; Keisuke Minai, 'What Legal Interest Is Protected by the Right of Collective Self-Defense: The Japanese Perspective' (2016) 24 *Willamette Journal of International Law and Dispute Resolution* 105.

[34] There have, of course, also been crucial works dedicated to collective self-defence in a general sense, but these have been relatively few in number and of much shorter length than the present book. See, for example, Bowett, n.10; Hans Kelsen, 'Collective Security and Collective Self-Defense under the Charter of the United Nations' (1948) 42 *American Journal of International Law* 783; Jane A. Meyer, 'Collective Self-Defense and Regional Security: Necessary Exceptions to a Globalist Doctrine' (1993) 11 *Boston University International Law Journal* 391; Russell Powell, 'The Law and Philosophy of Preventive War: An Institution-Based Approach to Collective Self-Defence' (2007) 32 *Australian Journal of Legal Philosophy* 67.

[35] UNGA Summary Record, UN Doc. A/C.6/SR.877 (1 April 1966), para. 7.

[36] Oscar Schachter, 'United Nations in the Gulf Conflict' (1991) 85 *American Journal of International Law* 452, 472.

example, note the 'Arria formula' meeting of the UN Security Council, which was convened by Mexico in February 2021.[37] The meeting was arguably the most substantial general discussion between states regarding the right of self-defence in international law since the mid-1970s.[38] However, states barely even took note of the concept of collective self-defence during those discussions.[39] This was, of course, despite the 'Arria formula' meeting taking place against the backdrop of a significant increase in the *exercise* (or purported exercise) of collective self-defence by states over the preceding ten years.

The relative lack of consideration of collective self-defence by both scholars and states (and intergovernmental bodies) has meant that it has long been under-theorised, and significant questions remain regarding how it operates – or, rather, *must* operate – in practice. This problem should not be overstated: given that individual and collective self-defence share multiple legal requirements, one can glean a significant amount of detail about the law governing collective self-defence from analysing the more extensive practice and scholarship relating to individual self-defence. However, consideration of the *application* of these requirements in the collective context has been negligible, and the close relation between individual and collective self-defence also means that the same controversies exist in relation to the exercise of both.[40] The 'shared' criteria are also far from the end of the story when it comes to the legal regulation of collective self-defence.[41]

With the increased number of collective self-defence claims that have been made in recent years, the implications of the general lack of engagement with the concept – in terms of guarding against its abusive invocation and providing a degree of clarity for any states seeking to exercise collective self-defence as to what is or is not permitted – can be said to have become more acute. Gray, for example, has argued that the recent increase in state invocation of collective self-defence in practice

[37] See Letter dated 8 March 2021 from the Permanent Representative of Mexico to the United Nations addressed to the President of the Security Council, UN Doc. S/2021/247 (16 March 2021).

[38] See Adil Ahmad Haque, 'The Use of Force against Non-State Actors: All Over the Map' (2021) 8 *Journal on the Use of Force and International Law* 278, 278.

[39] See UN Doc. S/2021/247, n.37.

[40] On the legal criteria (and controversies) that are shared between individual and collective self-defence, see Chapter 3.

[41] In particular, because of the existence of the request requirement, which only applies to collective self-defence. See Chapters 4–6.

has 'brought the right of collective self-defence back into prominence and has raised fundamental questions about the scope of the right'.[42] In a similar vein, Lee noted recently that:

> [g]iven the gravity of the concept of self-defense in international law and the importance of the role it plays in the present UN Charter regime . . . any discussion of the issue of collective self-defense should be based on a thorough examination of the applicable jurisprudence and principles of international law.[43]

This book aims to respond to these calls by attempting to answer, or at least significantly progress debate on, the 'fundamental questions about the scope of the right', and do so 'based on a thorough examination of the applicable jurisprudence and principles of international law'. The intent is to provide the most detailed and extensive account of collective self-defence to date, at a time when it is being invoked in state practice more often than ever before.

0.2 A Focus on State Practice

This study is predominantly based on analytical, desk-based doctrinal research, premised on the traditional sources of international law set out in Article 38(1) of the Statute of the International Court of Justice (ICJ).[44] A key methodological focus herein is on the examination of *state*

[42] Gray, n.16, 176 (making this point specifically in relation to the use(s) of force in Syria since 2014). See also Elie Perot, 'The Art of Commitments: NATO, the EU, and the Interplay between Law and Politics within Europe's Collective Defence Architecture' (2019) 28 *European Security* 40, 41 (arguing in 2019 that collective self-defence has become a 'crucial domain'); Lee, n.20, 374 (arguing in 2015 that '[t]he concept of collective self-defense is now attracting increased global attention').

[43] Lee, n.20, 375.

[44] Statute of the International Court of Justice (1945) 33 UNTS 93, Article 38(1) ('The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply: (a) international conventions, whether general or particular, establishing rules expressly recognized by the contesting states; (b) international custom, as evidence of a general practice accepted as law; (c) the general principles of law recognized by civilized nations; (d) subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law'). See Erika de Wet, *Military Assistance on Request and the Use of Force* (Oxford, Oxford University Press, 2020), 13 (characterising that author's approach – to the closely related concept of 'military assistance on request' – in a very similar way).

practice.[45] Despite its legal existence being starkly confirmed in Article 51 of the UN Charter, there is very little treaty law to indicate how collective self-defence is to be conceptualised and applied. Its nature and legal parameters therefore can only be ascertained from the analysis of its employment by states in practice and by the way in which they invoke it (and, perhaps more importantly, respond to the invocation of it), as evidence of *opinio juris*.[46] From these raw elements, an attempt can be made to establish the rules governing the exercise of collective self-defence under customary international law (and how they are to be applied), as well as a more developed picture of the nature and scope of the legal concept as a whole.

The primary approach of this book is therefore to examine in depth the (actual/avowed) instances of collective self-defence that have occurred, particularly in the UN era. As already noted, there is a general perception in the literature that collective self-defence has been rarely practiced since 1945.[47] One reason for this view is that states have often advanced collective self-defence claims in situations that do not appear to have met the legal requirements for the exercise of the right.[48] Indeed, a

[45] It is worth noting that, in addition, the practice of international organisations is also examined in depth, especially that of collective self-defence organisations (or organisations that include a collective self-defence function). See Wet, n.44, 14 (again, taking the same approach). See also ILC, *Conclusions on the Identification of Customary International Law, with Commentaries*, UN Doc. A/73/10 (2018), conclusion 4(2), 119 ('[i]n certain cases, the practice of international organizations also contributes to the formation, or expression, of rules of customary international law').

[46] Regarding the criteria of 'state practice' and '*opinio juris*' for the formation of customary international law, see UN Doc. A/73/10, n.45, particularly conclusions 2–10 (and commentaries), 124–142; *North Sea Continental Shelf Cases* (*Federal Republic of Germany v. Netherlands*, *Federal Republic of Germany v. Denmark*) (merits) [1969] ICJ Rep. 3, para. 77; *Continental Shelf* (*Libyan Arab Jamahiriya/Malta*) (merits) [1985] ICJ Rep. 13, para. 27; *Nicaragua* (merits), n.11, para. 207. The meanings of both state practice and *opinio juris* remain highly contentious among scholars. See, for example, Jörg Kammerhofer, 'Uncertainty in the Formal Sources of International Law: Customary International Law and Some of Its Problems' (2004) 15 *European Journal of International Law* 523, 525–536. However, these concepts are at least broadly accepted, and their content has been developed in the ICJ's jurisprudence to the extent that, in 2012, the Court noted that it needed to apply 'the criteria which it [the Court] *has repeatedly laid down* for identifying a rule of customary international law'. *Jurisdictional Immunities of the State* (*Germany v. Italy*: *Greece intervening*) (merits) [2012] ICJ Rep. 99, para. 55 (emphasis added).

[47] See nn.16–20 and accompanying text.

[48] See, for example, the use of force by the United States in Lebanon in 1958, which was justified both by Lebanon (UNSC Verbatim Record, UN Doc. S/PV.827 (15 July 1958), para. 84) and the United States (UN Doc. S/PV.827, n.48, para. 44) as an act of collective

significant proportion of the (purported) occurrences of collective self-defence that have occurred in the UN era can be said to have been of dubious legality:

> The cases of the use of force by a third State reveal how often this right has been abused: force in alleged collective self-defense has been used without there being an armed attack or even an external threat against the alleged 'victim State', or the 'victim State' has not considered itself attacked or threatened, and has not requested assistance. . . . Most of the cases [of 'collective self-defence' in the UN era] have as the common denominator the blatant abuse of the right of collective self-defense.[49]

As such, it is perhaps unsurprising that many writers have concluded that there has been very little collective self-defence practice in the UN era, because *lawful* exercises of the right have indeed been rare. In a version of the well-worn apologist/utopian dilemma,[50] the question for the analyst thus is how much (if any) weight – in terms of the contribution to the interpretation or formation of legal standards – to ascribe to the claims made by states in instances where the invocation of collective self-defence was of questionable legality. To place too much weight on what states *say* when it comes to collective self-defence will inevitably result in an uncertain picture of its legal content,[51] because states themselves have not been shy in advancing dubious claims. In some instances, there is

self-defence, in circumstances where there obviously had been no armed attack whatsoever (nor any realistic threat of an imminent armed attack). On the armed attack requirement for collective self-defence, see Section 3.2. Much more recently, Russia claimed to be exercising collective self-defence at the request of the regions of Donetsk and Luhansk in Ukraine in 2022, despite the fact that these entities were not states and therefore could not request aid in collective self-defence. See 'Address by the President of the Russian Federation', n.27. On the requirement that collective self-defence requests must be made by states, see Section 5.2. These two examples – from either end of the UN era – are representative of a wider trend in practice towards dubious invocations of collective self-defence.

[49] Stanimir A. Alexandrov, *Self-Defence against the Use of Force in International Law* (The Hague, Kluwer Law International, 1996), 215. See also Abhimanyu George Jain, 'Rationalising International Law Rules on Self-Defence: The Pin-Prick Doctrine' (2014) 14 *Chicago-Kent Journal of International and Comparative Law* 23, 36, footnote 45; Eustace Chikere Azubuike, 'Probing the Scope of Self Defense in International Law' (2011) 17 *Annual Survey of International and Comparative Law* 129, 175; Gray, n.16, 178–179, 197.

[50] See, generally, Martti Koskenniemi, *From Apology to Utopia: The Structure of International Legal Argument* (Cambridge, Cambridge University Press, 2005 reissue).

[51] Andrew R. Willard, 'Incidents: An Essay in Method' (1984–1985) 10 *Yale Journal of International Law* 21, 24.

also a risk of giving credence to wholly spurious (and perhaps even abusive) legal arguments. Equally, to ignore the claims advanced by states and instead attempt to discern the nature of collective self-defence through a more principle-based, deductive method – while likely to produce a more coherent framework, aligned to conceptual clarity and underpinning values – risks having little relationship to reality.

Ultimately, the present author is inclined to recall the ICJ's famous statement in the 1986 *Nicaragua* case, that one cannot 'ascribe to States legal views which they do not themselves advance'.[52] The collective self-defence claims made by states have to be treated seriously, even when they are legally questionable. It is also worth noting that controversy among states over these collective self-defence claims has tended to centre on the facts and/or the application of the law to the facts in the relevant situation, rather than on the content of the law itself.[53] Thus, dubious legal justifications can contribute to the content of the law, particularly when assessed in combination with the reactions to them from other states. When a collective self-defence claim is considered by other states to be unlawful, this helps to identify the picture of what a lawful collective self-defence action must look like – especially when states advance their *reasons* for concluding that the action in question was unlawful. As Ferro has argued:

> it would be mistaken to ignore the repeated, public and explicit invocation of collective self-defence simply because its conditions under the *lex lata* have not been met. The expressed legal conviction of states must be taken seriously, regardless of commentators' evaluation of its accuracy under international law.[54]

On this basis, in this book, the claims made by states are taken at face value in the first instance and are referred to as 'examples of collective

[52] *Nicaragua* (merits), n.11, para. 207.

[53] Gray, n.16, 179.

[54] Luca Ferro, 'The Doctrine of "Negative Equality" and the Silent Majority of States' (2021) 8 *Journal on the Use of Force and International Law* 4, 25, footnote 109. See also Dino Kritsiotis, 'Intervention and the Problematisation of Consent', in Olivier Corten, Gregory H. Fox and Dino Kritsiotis, *Armed Intervention and Consent*, Max Planck Trialogues on the Law of Peace and War (Anne Peters and Christian Marxsen, series eds.), vol. IV (Cambridge, Cambridge University Press, 2023), 26, 79 (stating, in the context of discussing collective self-defence, that '[l]egally speaking, it therefore matters a great deal as to what legal justification (or set of justifications) are being pleaded for a given action: these should not be assumed or imagined because they come to define the normative minutiae that are to be applied in line with the respective justification').

self-defence', 'instances of relevant state practice', or similar terms. However, such shorthand phrases should not be taken as an indication that any given claim was correct on the legal merits. Context and – crucially – the reactions of other states are also considered throughout, to provide nuance.

As a result, the relevant 'pool' of collective self-defence practice to be assessed is perhaps larger than is commonly perceived. This is particularly the case following the unprecedented surge in the number of invocations of collective self-defence since 2014.[55] This practice is engaged with herein in significant depth. Indeed, this book is based – this author believes – on the most extensive review of collective self-defence practice ever conducted.[56] That said, this author makes no claims to total *comprehensiveness* as to the review of all (actual or asserted) instances of collective self-defence in the UN era. Every attempt has been made to review as many examples as possible, but it may well be the case that some have not been considered, especially as other scholars might have different views as to what instances of practice should rightly 'qualify'.

Care has been taken to ensure diversity in the sense of considering practice from geographically disparate regions, involving states from every continent and major legal system. Likewise, in considering collective self-defence organisations – especially in Chapter 7 – the analysis focuses not just on Global North organisations such as NATO but also on as many relevant organisations as possible from Africa, South America, and Asia. These attempts to ensure that the practice reviewed is suitably representative need to be qualified, however. There is, of course, likely to be an element of subconscious ethnocentricity in any selection and analysis of instances of state practice due to the intrinsic biases of the scholar (and other restrictions, such as language).[57] To an extent, this research is necessarily undertaken from a 'Western' perspective, and it is important to acknowledge that the attempts that have been made to offset that fact – while genuine and crucial – are, at best, only

[55] See nn.21–29 and accompanying text.

[56] See, as perhaps the most extensive review previously conducted, Aadhithi Padmanabhan and Michael Shih, 'Collective Self-Defense: A Report of the Yale Law School Center for Global Legal Challenges' (10 December 2012), https://law.yale.edu/sites/default/files/documents/pdf/cglc/GLC_Collective_SelfDefense.pdf.

[57] See Willard, n.51, particularly 21–24; W. Michael Reisman, 'International Incidents: Introduction to a New Genre in the Study of International Law' (1984–1985) 10 *Yale Journal of International Law* 1, 13–14.

ever going to be partially successful. It is also always worth keeping in mind that international law itself remains an inherently 'Western' social construct, rooted in (neo)colonialism.[58] As such, states from other regions of the world have little choice but to engage with international law on the basis of the Global North's preoccupation with capitalist modernity.[59] Collective self-defence is no different from other areas of international law in this regard: its development has been skewed towards European and North American narratives, even in the context of its exercise or assessment by states from the Global South.

It also is the case that a disproportionate number of the examples of the avowed exercise of collective self-defence during the Cold War involved the superpowers of the time: the United States and the USSR. As such, despite attempts herein to ensure analysis of a diverse range of state practice, the available examples of collective self-defence from a large part of the UN era necessarily require greater consideration of the actions and statements of these powerful states (which are/were, of course, also nuclear powers). Further, the Cold War era examples must be reviewed with an eye to the climate of 'mutually assured rejection' of legal claims made across the iron curtain (in either direction) that defined international relations at the time.[60] Ideologically entrenched debates over collective self-defence actions were a key feature of the Cold War, meaning that one must be cautious in extracting legal meaning from them. It should additionally be said that the divisions between the world's major powers did not disappear with the fall of the Berlin Wall, either: as ongoing crises in both Syria and Ukraine (among others) demonstrate. Some of the same caution thus must be applied to the analysis of post–Cold War invocations of collective self-defence too.

[58] See, generally, Salvatore Caserta, 'Western Centrism, Contemporary International Law, and International Courts' (2021) 34 *Leiden Journal of International Law* 32; Brian-Vincent Ikejiaku, 'International Law Is Western Made Global Law: The Perception of Third-World Category' (2013) 6 *African Journal of Legal Studies* 337.

[59] See, generally, Ntina Tzouvala, *Capitalism as Civilisation: A History of International Law* (Cambridge, Cambridge University Press, 2020).

[60] See Gregory H. Fox, 'Intervention by Invitation', in Marc Weller (ed.), *The Oxford Handbook of the Use of Force in International Law* (Oxford, Oxford University Press, 2015), 816, 823–824 (noting that during the Cold War, the superpowers and their allies invariably took mutually opposed 'positions on the legitimacy of intervention depending on the political setting'); Masoud Zamani and Majid Nikouei, 'Intervention by Invitation, Collective Self-Defence and the Enigma of Effective Control' (2017) 16 *Chinese Journal of International Law* 663, 666.

Finally, in this section, it must be recalled that states are notorious for advancing blurred, 'mixed', or imprecise legal claims, especially in the context of the *jus ad bellum*.[61] For example, states sometimes combine individual and collective self-defence arguments without drawing clear distinctions between them.[62] They also have often mixed collective self-defence claims with references to so-called 'military assistance on request'.[63] So far as possible, care has been taken herein to 'unpick' these claims and focus on collective self-defence arguments only. However, in this book, it is important to be aware that assumptions and inferences are necessarily at times made about what a state has done or said, when the arguments it has made have not been as explicit or clear as one might have hoped. When this is the case, though, it is acknowledged.

0.3 The *Nicaragua* Case

Although the primary focus of much of this book is the analysis of practice, this is augmented by an extensive literature review and the analysis of relevant case law. With regard to the latter, there actually is relatively little case law that relates specifically to collective self-defence.[64] However, one key case is of notable importance, which is the famous 1986 *Nicaragua* decision of the ICJ. This case has had a huge impact on the understanding and development of the right of self-defence in general, albeit that a number of aspects of the Court's decision can be – and have been – critiqued.[65] Moreover, *Nicaragua* is of particular importance to the current study because the Court was specifically engaging with a collective self-defence claim and did so in significant detail. Much of the academic commentary that exists regarding collective self-defence has

[61] See, generally, Dino Kritsiotis, 'Arguments of Mass Confusion' (2004) 15 *European Journal of International Law* 233.

[62] See de Wet, n.44, 191. See, for example, Letter dated 7 October 2001 from the Chargé d'affaires a.i. of the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council, UN Doc. S/2001/947 (7 October 2001) (the UK's self-defence claims following 9/11).

[63] See Section 8.3.

[64] That said, there are important references to collective self-defence in a number of ICJ cases that are considered in this book. For a detailed examination of the ICJ's case law relevant to the right of self-defence *in toto*, see James A. Green, *The International Court of Justice and Self-Defence in International Law* (Oxford, Hart Publishing, 2009).

[65] See, generally, *ibid*.

therefore centred around the judgment.[66] It has been argued that, for good or ill, the *Nicaragua* case 'plays a crucial role' in relation to the contemporary law governing the exercise of collective self-defence.[67] The decision will be returned to at multiple points throughout this book. As such, it is worth briefly setting out the key facts, claims of the parties, and features of the case at this introductory stage.

In April 1984, Nicaragua made an application to the ICJ[68] alleging that the United States had supported, and was continuing to support, 'contra' forces opposing the Nicaraguan government,[69] as well as participating in more direct attacks against it.[70] Nicaragua asserted that these actions meant that the United States had violated, *inter alia*, the prohibition on the use of force under Article 2(4) of the UN Charter.[71]

Once the ICJ had ruled that it could entertain the dispute,[72] the United States made it clear that it would not participate further in the proceedings.[73] It filed no pleadings on the merits, nor was it represented at the oral proceedings in September 1985.[74] However, before withdrawing from the case, the United States had formally claimed that its actions were lawful instances of collective self-defence, in response to uses of force by Nicaragua against its neighbours. The United States alleged that Nicaragua had provided indirect support to the armed opposition groups

[66] See, for example, Zia Modabber, 'Collective Self-Defense: *Nicaragua v. United States*' (1988) 10 *Loyola of Los Angeles International and Comparative Law Journal* 449; R. St. J. MacDonald, 'The *Nicaragua* Case: New Answers to Old Questions' (1986) 24 *Canadian Yearbook of International Law* 127; Nicholas Rostow, '*Nicaragua* and the Law of Self-Defense Revisited' (1986) 11 *Yale Journal of International Law* 437; John Norton Moore, 'The Secret War in Central America and the Future of World Order' (1986) 80 *American Journal of International Law* 43; Paul S. Reichler and David Wippman, 'United States Armed Intervention in *Nicaragua*: A Rejoinder' (1986) 11 *Yale Journal of International Law* 462; John Lawrence Hargrove, 'The *Nicaragua* Judgment and the Future of the Law of Force and Self-Defence' (1987) 81 *American Journal of International Law* 135.

[67] Gray, n.16, 180. See also Gina Heathcote, *The Law on the Use of Force: A Feminist Analysis* (Abingdon, Routledge, 2012), 77 (arguing that the *Nicaragua* case 'affirm[ed] collective self-defence as an important component of the international right').

[68] *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v. United States of America*) (application instituting proceedings) [1984] ICJ Plead., vol. I, 2.

[69] *Ibid*, particularly paras. 1–8.

[70] *Ibid*, particularly para. 10.

[71] *Ibid*, particularly paras. 9 and 15.

[72] See *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v. United States of America*) (jurisdiction of the court and admissibility of the application) [1984] ICJ Rep. 392, especially para. 113.

[73] See *Nicaragua* (merits), n.11, para. 10.

[74] See *ibid*, para. 17.

in other states in Central America, particularly El Salvador,[75] while also participating in more direct forms of armed intervention in both Honduras and Costa Rica.[76]

A notable aspect of the *Nicaragua* case was the effect of a reservation entered by the United States when it declared its acceptance of the ICJ's jurisdiction under Article 36(2) of the Court's Statute. In the declaration, the United States included a reservation in relation to 'disputes arising under a multilateral treaty, unless . . . all parties to the dispute affected by the decision are also parties to the case before the Court'.[77] The ICJ took the view that any decision on the merits would necessarily 'affect' El Salvador,[78] in that this would reflect upon any measures El Salvador had taken in individual self-defence against Nicaragua.[79] As such, the Court concluded that the reservation precluded it from applying multilateral treaty law in the case.[80]

In the *Nicaragua* merits decision, the ICJ therefore outlined and applied to the dispute what it considered to be the *customary international law* on collective self-defence to the actions of the United States in and against Nicaragua.[81] It concluded that those actions did not meet the legal requirements for collective self-defence, and thus that the United States was indeed in violation of the prohibition on the use of force (albeit that prohibition as it exists in customary rather than conventional international law).[82] As noted at the start of this section, the Court's judgment – as well as the separate opinions of some of the judges

[75] *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v. United States of America*) (counter-memorial of the United States of America, questions of jurisdiction and admissibility) [1984] ICJ Plead., vol. II, paras. 189–197.

[76] *Ibid*, paras. 198–201.

[77] United States of America, Declaration Recognizing as Compulsory the Jurisdiction of the Court, in Conformity with Article 36, Paragraph 2, of the Statute of the International Court of Justice (14 August 1946) (1946–1947) 1 UNTS 9.

[78] The United States argued that a decision by the Court would affect not only El Salvador but also Costa Rica and Honduras, *Nicaragua* (counter-memorial of the USA), n.75, vol. III, paras. 279–291. The ICJ only reached a conclusion on this question regarding El Salvador, but the Court made it clear that this was because it was unnecessary to examine the possible effect of a merits decision upon the other states, as its conclusion regarding El Salvador was enough in itself to mean that the US reservation was applicable: *Nicaragua* (merits), n.11, para. 48.

[79] *Nicaragua* (merits), n.11, paras. 42–56.

[80] See *ibid*.

[81] It is worth noting that the Court also could (and did) apply relevant *bilateral* treaties between the parties. See, for example, *ibid*, para. 271.

[82] See *ibid*, particularly para. 292.

that were appended to the decision – will be revisited in more detail at various points throughout this book.

0.4 A Brief Note on Terminology

The exercise of collective self-defence – at least, its *lawful* exercise – necessarily involves the relationship(s) between at least three states. These are 1) the state that has suffered an attack[83] and requests aid; 2) the state that responds to this request with defensive force; and 3) the state[84] that perpetrated the attack.[85] This is at a minimum, as there may be more than one state using defensive force, and there may be more than one state involved in perpetrating the armed attack.

To avoid confusion, it is worth stating the terminology employed herein regarding these different state actors in any given collective self-defence scenario. This book uses the same terms employed in the 1939 Draft Convention on Rights and Duties of States in Case of Aggression.[86] As per Article 1 of that document, a '"*defending State*" is a State which is the victim or object of aggression. . . . A "*co-defending State*" is a State which assists a defending State with armed force'.[87] As such, throughout this work, the state that has been attacked and is seeking aid is referred to as the *defending* state. The state (or states) using force in response to the defending state's appeal is referred to as the *co-defending* state (or states). In addition, the term 'aggressor state' is employed with regard to the state that perpetrated the original armed attack.

0.5 The Structure of This Book

Following the Introduction, this book begins with an attempt, in Chapter 1, to delineate the notion of collective self-defence. As already

[83] This arguably may also include attacks that will imminently occur. See Section 3.2.3.

[84] This arguably may also extend to a state from which a non-state actor has perpetrated an attack (or, perhaps, will imminently perpetrate an attack). See Sections 3.2.3 and 3.2.4.

[85] Again, this arguably may include an imminent attack that has not yet occurred, see Section 3.2.3.

[86] Harvard Research, *Draft Convention on Rights and Duties of States in Case of Aggression*, with Comment (1939), in (1939) 33 *Supplement to the American Journal of International Law* 819. The Draft was developed as part of a project undertaken by a group of (distinguished) researchers at Harvard University and was never adopted by states.

[87] *Ibid*, 827, Article 1 (emphasis added).

noted,[88] while the core concept can be stated relatively easily, there has been persistent controversy regarding the nature of collective self-defence. It is possible to identify no fewer than five different 'conceptions' of collective self-defence that have been advanced in scholarship. These conceptions are explored in detail in the chapter. It also examines the question of whether collective self-defence is indeed an 'inherent right', as Article 51 of the UN Charter indicates. The status of collective self-defence as a right (and, moreover, as a right that is inherent) has also proved to be controversial, and so this requires theorisation and analysis of the views of states. Finally, Chapter 1 considers the modality of collective self-defence, and particularly the question of what action constitutes an instance of collective self-defence.

Chapter 2 then moves to an examination of the history and development of collective self-defence. It is argued that – contrary to the common assertion that the concept was a new one in 1945[89] – in fact, its roots can be seen throughout history. The chapter maps that history, starting briefly with the alliances of ancient Greece and moving through to the influential writings of the seventeenth century, when recognisable characteristics of the modern concept truly began to emerge. There is then a notable focus on the developments in the interwar years and during the Second World War, which saw an increase in the number of collective defence treaties and more specificity in the drafting of those treaties. This period concluded with the emergence of a regional collective defence system in the Americas, which was extremely influential for the drafting of Article 51 in 1945. Chapter 2 concludes by analysing the drafting process and the changes to the concept of collective self-defence that the adoption of the UN Charter brought about. It is argued that Article 51 'conjoined' individual and collective self-defence in a way that had little basis in the previous historical development of collective defence arrangements under international law. This conjoining has had significant implications for how collective self-defence is understood today.

Chapters 3–6 represent the 'backbone' of this book, in that they identify and analyse the legal requirements for the operation of collective self-defence. Chapter 3 considers the criteria for collective self-defence that are shared with individual self-defence. It is uncontentious to say that the same criteria that apply to individual self-defence – armed attack, necessity, proportionality, etc. – also apply to collective self-

[88] See nn.4–10 and accompanying text.
[89] See n.11 and accompanying text.

defence. Indeed, this is an inevitable consequence of the conjoining of the concepts in Article 51. The nature and application of these criteria in the context of individual self-defence have been examined at great length in existing literature.[90] Chapter 3, therefore, does not provide in-depth analysis of all of their aspects. It is, however, necessary to include a brief overview of these requirements to ensure that this book presents a comprehensive picture of the operation of collective self-defence today. The chapter's primary focus, though, is to examine how the operation of these criteria works specifically in the context of collective self-defence actions, which is something that has been largely overlooked in scholarship.

Alongside the shared criteria with individual self-defence, the ICJ famously took the view in the *Nicaragua* case that two additional criteria exist for the lawful exercise of collective self-defence.[91] These criteria have been commonly repeated, as being rules of customary international law, in scholarship since.[92] First, it is said, the state that has been attacked must 'declare' that it has been attacked, and then it must 'request' aid in its defence. Chapter 4 sets out the manner in which the ICJ identified these requirements and whether it considered them to be legally determinative or merely evidentiary. It then goes on to examine state practice/*opinio juris*, to test whether the requirements indeed can be identified as rules of customary international law. It is argued that the first of those asserted requirements (declaration), in fact, has no legal basis. However, the issuance of a request is, as the Court indicated, a binding requirement for the exercise of collective self-defence.

Yet, it is apparent that, under customary international law, a request in itself will be legally insufficient: the request must be *valid*. There are a range of factors that need to be considered that do (or, at least, may) have a bearing on the 'validity' of the request. Chapters 5 and 6, therefore, examine the application of the request requirement in significant detail, again by reference in particular to an extensive review of state practice and *opinio juris*. This is with the aim of identifying how that requirement operates, and when an alleged appeal for aid will be (or is likely to be) considered a legally valid collective self-defence request. Chapter 5 first examines the question of *who* can issue such a request. In so doing, it examines the view that only states can request aid in collective

[90] In relation to the huge literature on *individual* self-defence, see n.30.
[91] See *Nicaragua* (merits), n.11, particularly paras. 165–166, 195, 199, 231.
[92] See sources cited in Chapter 4, n.3.

self-defence and, indeed, further asks whether the issuer of the request must be a UN member state. The bulk of the chapter then examines how one identifies the de jure government of the state for the specific purpose of issuing a collective self-defence request.

Following on from the consideration in Chapter 5 of who can make a collective self-defence request, Chapter 6 examines *how* such a request needs to be issued. There are a number of unanswered questions about the necessary manner and form of collective self-defence requests. First, the chapter analyses whether 'open-ended' requests will suffice, or whether they must be targeted at the co-defending state(s). The chapter then considers whether collective self-defence requests must take any specific form and, in particular, queries whether they can be inferred. Similarly, it examines whether the request must even be made publicly (or, at least, be *publicised*), or whether secret/private requests can suffice. Finally, Chapter 6 engages with questions concerning the timing of the request.

Having analysed the requirements for collective self-defence in detail – especially the request requirement, which has previously received little attention in scholarship – Chapter 7 moves to a consideration of collective self-defence treaty arrangements. It engages with a diverse range of examples of the collective self-defence treaties (or treaties that contain collective self-defence aspects) that have emerged since 1945 to draw out common themes as to the nature, process, and role of such arrangements, as well as to establish notable variations. The aim is to contribute an overall picture of collective self-defence today specifically in the context of treaty relationships. The chapter argues that such relationships inevitably impose only weak obligations on their parties to defend each other and also can cause notable issues related to overlapping memberships, bureaucracy, and antagonism among members (among other difficulties). Equally, these arrangements – of which there are now hundreds – are concluded for good reason(s). They provide a range of notable benefits, especially in terms of their deterrent effect.

The final chapter of the book examines the relationship between collective self-defence and another legal basis for the use of force, which in scholarship is variously referred to as 'military assistance on request' or 'intervention by invitation'. Analysing the relationship between collective self-defence and military assistance on request is crucial because these concepts are, in some respects, strikingly similar. Indeed, it has been argued that they overlap. The chapter explores the extent to which the concepts can be differentiated at the 'doctrinal' or 'conceptual' level,

before turning to the various legal requirements (actual or, in some cases, arguable) for collective self-defence and military assistance on request, with the aim of highlighting similarities or differences, as relevant, when it comes to the operation of these two concepts. The primary aim of the chapter – as with this book as a whole – is to advance the understanding of the concept of collective self-defence in international law.