

**ANTICIPATORY MILITARY ACTION ON NUCLEAR
FACILITIES AND THE TRANSFORMATION OF ARTICLE
51: IRAN, VENEZUELA AND THE CRISIS OF
ANTICIPATORY SELF-DEFENCE IN CONTEMPORARY
INTERNATIONAL LAW**

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Abstract

The Pre-emptive military strikes on nuclear power stations is a very controversial topic of contemporary international law. In this article, the evolving definition of Article 51 of the UN Charter concerning the emergence of nuclear dangers will be considered, highlighting such aspects as the nuclear ambitions of Iran, failure of the JCPOA agreement and growing strategic partnership of Iran and Venezuela. This study will investigate the possibility that contemporary security concerns have changed the traditional parameters of imminence, necessity and proportionality of the use of force under the Caroline doctrine, case laws and state practices.

It states that the rise of threshold nuclear powers, quick weaponization technology, proxy wars, cyber-attacks, and transnational security networks has made it difficult to distinguish between anticipatory and preventive self-defence. This article goes ahead to discuss how economic sanctions, covert activities, and strategic containment policies have made it difficult to understand the idea of pre-emption through traditional means. While acknowledging the threat to the global community because of the proliferation of nuclear weapons, the author maintains that an expanded understanding of

anticipatory self-defence will pose a threat to the collective security system as outlined in the United Nations Charter.

Keywords: Anticipatory Self-Defence; Article 51 UN Charter; Iran Nuclear Programme; Threshold Nuclear States; Collective Security.

I. INTRODUCTION

Legitimacy of pre-emptive attacks on nuclear sites is one of the most controversial strategic questions that contemporary international law faces today. Indeed, the issue lies at the crossroads of issues relating to collective security, sovereignty of states, proliferation of nuclear arms, and emerging notion of self-defense as defined by the UN Charter. There is a strict prohibition of the unilateral use of force in international law due to the provisions of Article 2(4) of the UN Charter according to which states should not use "the threat or use of force against the territorial integrity or political independence of any state."¹ However, changing geopolitics, emergence of threshold nuclear countries, and increasing fear about weapons of mass destruction have challenged the established understanding of self-defense. Controversies arise more frequently than ever before when speaking of Iran's nuclear development especially after disintegration of the Joint Comprehensive Plan of Action (JCPOA), resumed uranium enrichment, and growing military tensions between Iran, Israel, and USA during 2025–2026. The developments have triggered discussions of legitimacy of pre-emptive self-defense in relation to attacks on nuclear installations prior to the actual aggression.

Discussion on the issue of anticipatory self-defense in today's world is based on the contradiction between Article 2(4) and Article 51 of the United Nations Charter. Article 51 recognizes the "inherent right of individual or collective self-

¹ U.N. Charter art. 2, ¶ 4.

defense in case of an armed attack",² It does not state explicitly whether it is possible to use military force prior to an attack occurring. The lack of clarity has led to differing interpretations by scholars and states. According to a strict interpretation, only the right of self-defense in reaction to an armed attack exists, thereby preserving the system of collective security created by the Charter, and limiting unilateral military action.³ Alternatively, a liberal interpretation holds that the Article 51 leaves intact the existing rules of customary international law, in particular, developed in relation to the Caroline case of 1837, which allows use of force preemptively when its necessity is "immediate, overwhelming, leaving no alternative means, and no time for deliberation."⁴ Modern security issues such as the threat of nuclear war, cyberattacks, proxy wars, clandestine weapons development have fueled the need for a more liberal interpretation.

The discourse grew fiercer after alleged Israeli military operations on Iran's nuclear facilities in 2025, referred to by strategic experts as "Operation Rising Lion." These operations were aimed at uranium enrichment and missiles development centers in particular, such as Natanz and Fordow. While Israel justified its moves based on existential threats of Iran acquiring nuclear power, world's reactions were polarized nonetheless. Contrasting the massive backlash after Israeli strike on Iraq's Osirak facility in 1981 (referred to as "Operation Opera"), reactions on Israeli attack in 2025 seemed relatively mild and more complex.⁵ Numerous Western countries pointed out Iran's violations of its obligations before IAEA and enrichment of uranium up to weapon grade levels, while most developing countries claimed the operations to be violations of Iran's sovereignty and international law (based on the UN Charter). Such differences

² U.N. Charter art. 51.

³ Christine Gray, *International Law and the Use of Force* 150–53 (5th ed. 2025).

⁴ Letter from Daniel Webster to Lord Ashburton (Aug. 6, 1842), reprinted in 29 Brit. & Foreign State Papers 1137, 1138 (1857).

⁵ Suzanne Raine, *The Rights and Wrongs of Self-Defence*, Engelsberg Ideas (June 30, 2025), <https://engelsbergideas.com>.

show the emerging change in state policy on preventive measures toward threshold nuclear states.

Furthermore, Iran's increased strategic relations with countries including Venezuela and Russia complicate the situation legally and politically, as the cooperation in energy, sanctions evasions, drones, and allegedly missiles supplies increases the view of Iran being a member of anti-Western strategic alliance.⁶ Over the years, there has been an increase in the use of economic sanctions, cyber attacks, sea interdictions, and targeting restrictions against the Iranian-Venezuelan network as a pre-emptive move for security purposes. From the above analysis, it is clear that pre-emption now includes not only military attacks but also economic warfare, cyber attacks, covert operations, and strategic containment. In this regard, the developments give rise to some fundamental questions regarding whether it is normal to apply anticipatory self-defensive actions in line with international law considering nuclear security and hybrid security challenges.

The paper suggests that changes in state practice towards the Iranian nuclear program can be viewed as a new trend in terms of international law with respect to the right to anticipatory action. It suggests that while traditional Caroline principles govern the legitimacy of any such actions, changing geopolitical realities affect the interpretation of the paper 51 through imminence, necessity, and proportionality concepts. By analyzing state practices, International Court of Justice rulings, Israeli history of pre-empting the nuclear facility, Iranian nuclear crisis after JCPOA agreement, and geopolitics that involve Venezuela, the paper demonstrates that there is growing blurring between anticipatory self-defense and preventive self-defense according to international law.

⁶ Treasury Targets Iran-Venezuela Drone and Oil Network, Reuters (Dec. 30, 2025).

II. THE EVOLUTION OF ANTICIPATORY SELF-DEFENCE: FROM THE CAROLINE DOCTRINE TO CONTEMPORARY NUCLEAR THREATS

Anticipatory self-defense falls into one of the most controversial areas of international law relating to the use of force. While the UN Charter's ban on unilaterally using force is stipulated in Article 2(4), the interpretation of Article 51 has raised considerable controversy about whether states may employ force even before experiencing an actual armed attack.⁷ Historically, the origins of the doctrine of anticipatory self-defense trace back to the case of *Caroline* of 1837 when British troops attacked American territory and sunk the American schooner *Caroline*, allegedly being used by Canadian rebels against the British rule.⁸ In the exchange of correspondence between the two parties, U.S. Secretary of State Daniel Webster articulated what eventually became the common law standard for anticipatory self-defense. The secretary argued that force could only be justified in circumstances where there was an immediate danger of attack and when there were no other options than to use force, and the need for it was overwhelming, providing for no choice whatsoever and leaving no room for deliberation.⁹ It was additionally important for the defensive response to be commensurate with the threat. Both the necessity and proportionality have been a part of customary international law for many years.

Indeed, the ratification of the Charter of the United Nations in 1945 had a very great impact on the body of laws governing the application of inter-state force. According to the Charter of the United Nations, in the post-WWII era, the Charter sought to substitute the use of unilateral force for collective security which

⁷ Supra Note 1, at 1.

⁸ R.Y. Jennings, *The Caroline and McLeod Cases*, 32 Am. J. Int'l L. 82, 82–99 (1938).

⁹ Letter from Daniel Webster to Lord Ashburton (Aug. 6, 1842), reprinted in 29 Brit. & Foreign State Papers 1137, 1138 (1857).

focused on the Security Council.¹⁰ Article 2(4) accordingly prohibited the “threat or use of force against the territorial integrity or political independence of any state,” thereby establishing one of the central constitutional norms of the international legal order.¹¹ This means that Article 2(4) prohibits “the threat or use of force against the territorial integrity or political independence of any state,” thereby creating a fundamental constitutional principle of international law.¹² Meanwhile Article 51 safeguards the “inherent right of individual or collective self-defence if an armed attack occurs against a member.” The wording “if an armed attack occurs” was a very controversial one in doctrinal discussions.¹³ Restrictionists have argued that Article 51 restricted customary international rights by limiting self-defense to an actual armed attack. This interpretation sees anticipatory self-defense as unconstitutional due to unilateral threat assessments and the undermining of collective security systems. The other side of the debate argues that Article 51 did not abolish customary international rights but merely preserved them and that therefore anticipatory self-defense is allowed under Caroline criteria.¹⁴

The ICJ has generally adopted a cautious attitude with regard to the principle of anticipatory self-defense. In case “Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States),” the Court emphasized the need for an armed attack, which triggers the right of self-defense as provided for in Article 51, thus emphasizing a strict approach to the interpretation of the provisions of the charter.¹⁵ In “Oil Platforms (Iran v. United States),” the ICJ stated again that a legitimate act of self-defense should comply with the necessity

¹⁰ Thomas M. Franck, *Recourse to Force: State Action Against Threats and Armed Attacks* 3–10 (2002).

¹¹ U.N. Charter art. 2, ¶ 4.

¹² U.N. Charter art. 51.

¹³ Christine Gray, *International Law and the Use of Force* 150–54 (5th ed. 2025)

¹⁴ Yoram Dinstein, *War, Aggression and Self-Defence* 220–25 (7th ed. 2024).

¹⁵ Military and Paramilitary Activities (Nicar. v. U.S.), Judgment, 1986 I.C.J. 14, ¶ 194 (June 27).

and proportionality conditions set by customary international law. The ICJ has shown a strong concern about the possibility of expanding the notion of anticipatory self-defense, since this would lead to undermining of the entire charter regime by legalizing preemptive wars based on assumptions.¹⁶ This issue was clearly evident after the 2003 invasion of Iraq, where the U.S. and the UK tried to justify their military participation based on arguments of pre-emptive war and possession of weapons of mass destruction.¹⁷ The fact that no weapons were found in Iraq greatly reduced the credibility of theories of broad self-defense.

Despite this, however, the changing face of strategic reality in the early twenty-first century poses challenges for traditional understandings of imminence and acts of aggression. Modern threats include such diverse phenomena as cyber war, proxies, transnational terrorism, missiles, and "threshold nuclear" powers capable of rapidly developing nuclear weapons without crossing the weaponization threshold.¹⁸ This trend has led many people to suggest that the Caroline standard needs to be updated in view of modern technological developments. Proponents of the expanded right of anticipatory self-defense contend that requiring states to wait for an enemy state to attack with nuclear weapons undermines the very purpose of self-defense with regard to weapons of mass destruction.¹⁹ Israel has consistently used this logic to explain its actions against suspected nuclear facilities in Iraq, Syria, and more recently in Iran. Following the unraveling of the JCPOA and the enrichment of uranium in Iran to almost weapons-grade status by 2025, Israel and the United States began describing Iran as a threshold nuclear state, capable of quickly acquiring breakout capability.²⁰ In such a scenario,

¹⁶ *Oil Platforms (Iran v. U.S.)*, Judgment, 2003 I.C.J. 161, ¶¶ 43–76 (Nov. 6).

¹⁷ Michael N. Schmitt, *Preemptive Strategies in International Law*, 24 Mich. J. Int'l L. 513, 520–29 (2003).

¹⁸ Nicholas Tsagourias, *Cyber Attacks, Self-Defence and the Problem of Attribution*, 17 J. Conflict & Sec. L. 229 (2012).

¹⁹ Abraham D. Sofaer, *On the Necessity of Pre-emption*, 14 Eur. J. Int'l L. 209 (2003).

²⁰ International Atomic Energy Agency, *Verification and Monitoring in Iran in Light of United Nations Security Council Resolution 2231 (2015)*, GOV/2025/24 (2025).

imminence is no longer defined as military mobilization but rather as technological capability and deterrence capacity.

The evolving understanding of imminence has some important implications for international law. Historically, imminence required demonstration of imminent and unavoidable plans of attack. In relation to nuclear threats, there have been certain countries that claim the enrichment capability could be considered a pressing danger because of the consequences associated with nuclear weaponization.²¹ This reduces the requirements for anticipatory self-defense and opens up a dangerous grey area between self-defense against an imminent attack and preventive military measures. According to the critics, this change endangers the principles of the *jus ad bellum* since it creates the possibility for powerful states to justify their unilateral military actions through their assessments of their security needs.²² As there is no clear practice among states in this regard, it has become unclear whether present activities aimed at preventing threshold nuclear threats gradually develop into a new norm in conventional terms. Moreover, the international community remained relatively passive about the 2025 operations conducted by Israel against nuclear facilities of Iran, and some experts even consider the absence of criticism as the emergence of a new normative practice.²³

The evolution of anticipatory self-defense reflects the general confrontation between collective security and strategic realism in international law. The Charter system intends to restrict any unilateral actions of force and to keep the international peace stable; however, modern geopolitical circumstances make it necessary to reconsider the existing legal norms in the context of emerging threats to the survival of the respective states. The case of Iran shows how new

²¹ Suzanne Raine, *The Rights and Wrongs of Self-Defence*, Engelsberg Ideas (June 30, 2025), <https://engelsbergideas.com>.

²² Ian Brownlie, *International Law and the Use of Force by States* 275–80 (1963).

²³ Theresa Reinold, *The Current Military Strikes Against Iran Erode Fragile Norms of Sovereign Equality*, EDHEC Vox (2026).

technologies, increased level of uncertainty about intentions of rivals and geopolitical competition transform the conventional understanding of the notions such as imminence, necessity, and proportionality.

III. PRE-EMPTIVE STRIKES ON NUCLEAR FACILITIES: STATE PRACTICE, STRATEGIC NECESSITY AND THE EMERGENCE OF A CONTESTED CUSTOMARY NORM

The issue of preemptive strikes against nuclear facilities has been settled by states, rather than courts, so far. While the UN Charter has created a narrow framework for force application, constant military operations carried out against suspected nuclear sites resulted in numerous precedents, which are important for international legal discourse. The crucial problem lies in understanding whether these violations are merely individual breaches of international law, or whether the process of creation of a new custom rule of conduct against immediate threat of nuclear attack is underway. From the end of the Cold War, states that are under existential threats have relied on strategic necessity for the justification of attacks against nuclear installations on the grounds that their dire consequences are justification enough to pre-emptively attack even in cases where there is no imminent danger of attack with conventional forces.

The most important precedent is that of the Israeli attack against the Iraqi Osirak nuclear reactor in 1981 which is referred to as "Operation Opera". The attack was justified as being one of preemptive self-defense since Israel considered the nuclear project of Iraq as a threat to its existence.²⁴ Israel argued that waiting until Iraq acquired a functional nuclear weapon was impossible and that by then any defensive measures would prove futile as Israeli civilians would suffer from severe damage. The attack was militarily successful since it succeeded in

²⁴ Yoram Dinstein, *War, Aggression and Self-Defence* 232–36 (7th ed. 2024).

disabling the nuclear reactor before its commissioning. As far as legality is concerned, the attack led to harsh international criticism as the United Nations Security Council adopted Resolution 487 unanimously condemning it as a violation of the UN Charter and Iraqi sovereignty.²⁵ Indeed, the Security Council clearly denied the case of Israel for anticipatory self-defense, meaning that the narrow interpretation of Article 51 must apply, requiring that an attack be underway before invoking the right. However, even in the wake of the official criticism of the raid, Operation Opera found increasing strategic justification with the passage of time, especially after the Gulf War revealed how ambitious Iraq was about WMDs. The strategic justification of the raid reinforced later arguments that sometimes political necessity demands such action even though it is legally controversial.

Another precedent emerged in 2007, when Israel launched Operation Outside the Box against the alleged nuclear reactor in Syria named Al-Kibar. Unlike the previous raids, Israel kept mum about the raid at least in its early stages, and did not present any detailed legal arguments before international forums.²⁶ The subsequent investigations of the IAEA revealed that the location was marked with characteristics of an undeployed nuclear reactor.²⁷ Nevertheless, the world reaction differed sharply from that recorded in 1981. Although concerns regarding the sovereignty of Syria had emerged, there were no objections similar to Resolution 487 on the part of the Security Council. The subdued reaction became rather significant in analyzing the formation of the customary international law, whereby lack of objection, even silence, on behalf of a state can be helpful in creating *opinio juris* provided that the state acts consistently. Several historians argued that the world reaction to Al-Kibar revealed the strategic

²⁵ S.C. Res. 487, ¶¶ 1–3 (June 19, 1981).

²⁶ Andrew Garwood-Gowers, *Israel's Airstrike on Syria's Al-Kibar Facility: A Test Case for the Doctrine of Pre-emptive Self-Defence?*, 16 J. Conflict & Sec. L. 263, 270–74 (2011).

²⁷ Int'l Atomic Energy Agency, *Implementation of the NPT Safeguards Agreement in the Syrian Arab Republic*, GOV/2011/30 (2011).

approval of the practice of preemptive attacks against clandestine nuclear projects, particularly when multilateral enforcement systems appear insufficient. However, it has been argued that silence of politics does not outweigh the legal obligations of Article 2(4) of the Charter.

Legal rhetoric heated up after events involving Iran's nuclear program took place in 2025-2026. After years of increased production, restriction of IAEA inspections, and rising tension in the region, Israel reportedly carried out strikes targeting nuclear sites in connection with Natanz and Fordow facilities.²⁸ These operations can serve as a prominent example of the use of the anticipatory doctrine of force against nuclear facilities in modern international relations since they took place in conjunction with the advancement of enrichment activities, which were close to developing a nuclear arsenal. The Israeli authorities and strategists claimed that enrichment activities, missile developments, and Iran's proxy groups in the region posed a significant threat that could not be contained by diplomacy alone.²⁹ The U.S. reportedly provided strategic support through cooperation in intelligence activities, cyberspace, and defense matters. Unlike in Operation Opera, the world response to the 2025 attacks was much less unified. Western powers generally refrained from outright condemnation, focusing instead on the violations of non-proliferation obligations and weapons grade-enrichment danger posed by Iran. In opposition to this, Global South states condemned the attacks as aggressive acts and warned about the negative consequences for the international order established after 1945.

Emerging trends raise serious questions about the creation of a contentious customary norm for anticipatory attacks on nuclear facilities. As per the established principles of customary international law, there needs to be not only a recurring state behavior but also an opinion that the same is a lawful action. In

²⁸ Supra Note 21, at 5.

²⁹ Supra Note 17, at 5.

other words, *opinio juris* must exist alongside a regular practice.³⁰ While recurrent acts against nuclear plants indicate an emerging practice, the element of *opinio juris* is hard to establish owing to the inconsistent legal grounds provided by states for taking anticipatory action. This can largely be seen in Israel, where the justifications for the use of such force have been more in the form of strategic and existential arguments and not through any established doctrine derived from international law. Moreover, due to the absence of any judicial opinion from the International Court of Justice, the legality of the actions taken thus far remains unclear. Nonetheless, the existing strategic environment is slowly shifting paradigms in terms of understanding urgency and necessity. “Threshold nuclear state,” of course, has taken on considerable importance in this regard because of the immediacy that advanced enrichment technology brings to weaponization.³¹ Consequently, the temporal distinction between preventive and anticipatory self-defence has become increasingly blurred.

There is much danger associated with the rising tolerance of preemptive strikes within international law. Unilateral actions justified by personal threat perceptions endanger the prohibitory rule on the use of force and encourage political opportunism. The powerful states would feel tempted to rely upon nuclear fear and technological potential when justifying political or strategic reasons for the initiation of hostilities disguised as self-defense. In addition, there is no doubt that attacks on nuclear facilities involve high humanitarian risks as well as the danger of pollution since nuclear enrichment facilities are frequently located within civilian territories. Such military operations should be assessed for their proportionality in terms of *jus ad bellum* and international humanitarian law. The fact that preemptive strikes on nuclear facilities have received greater

³⁰ *Military and Paramilitary Activities (Nicar. v. U.S.)*, Judgment, 1986 I.C.J. 14, ¶ 207 (June 27).

³¹ Int’l Atomic Energy Agency, *Verification and Monitoring in Iran in Light of United Nations Security Council Resolution 2231 (2015)*, GOV/2025/24 (2025).

international tolerance signals a serious crisis in international law nowadays: the contradiction between the maintenance of security standards and the response to rapid technological threats that could not be regulated by traditional legal means.

IV. IRAN'S NUCLEAR PROGRAMME, THE COLLAPSE OF THE JCPOA AND THE REINTERPRETATION OF IMMINENCE UNDER ARTICLE 51

The nuclear program of Iran can be viewed as the key modern example to test the legitimacy of anticipatory self-defense under international law. Previously, discussions of pre-emptive strikes have been mainly concentrated around the operation of existing nuclear power plants and weapons factories. Nevertheless, in the case of Iran, the situation becomes much more complex from the legal standpoint due to such factors as high levels of uranium enrichment, advanced centrifuges, lack of control, and status of a threshold nuclear state. The breakdown of the Joint Comprehensive Plan of Action (JCPOA) after the US withdrawal in 2018 drastically changed the political and legal situation in connection with Iranian nuclear programs.³² Following the reimposition of US sanctions, Iran has increasingly violated some JCPOA requirements, stepped up uranium enrichment activity, and restricted cooperation with the IAEA. By 2025, it is reported that Iran has already gathered enough quantities of weapons-grade uranium while actively developing centrifuges that could significantly shorten the timeframe for Iran's breakout.³³ These findings fueled the concern among Israel and Western states about Iran's approaching ability to produce nuclear weapons, thus raising questions about the possibility of pre-emptive attack on Iran's nuclear program.

³² Joint Comprehensive Plan of Action, July 14, 2015, 55 I.L.M. 243 (2016).

³³ Supra Note 31, at 9.

This lies in the differentiation made between having the capacity to enrich fuel and the actual weaponization process. The treaty on the non-proliferation of nuclear weapons gives Iran the right to develop and utilize peaceful nuclear technology, including the uranium enrichment process.³⁴ Iran insists that its nuclear program is solely for civilian use and that its enrichment processes have been intended only to produce energy, conduct scientific research, and facilitate medicine. In the opinion of the Iranian government, the sanctions imposed upon them by western countries are an expression of prejudice, and attempts to subvert the sovereign rights of Iran as enshrined in Article IV of the NPT.³⁵ However, critics claim that the levels of enrichment, the lack of transparency, the advancement in the use of centrifuges, and the manufacture of missiles point to preparations for potential weaponization. This leads to a dilemma in the application of international law because of the usual differentiation made in customary international law between capability and imminent attack. Having the capacity to enrich or having threshold nuclear capability does not automatically mean that the country intends to launch an armed attack.

Imminence has turned out to be more controversial because the development of nuclear arms tends to quicken the strategic timelines. Traditional understanding of anticipatory self-defense relied on identifiable military movements, naval maneuvers, or the immediate preparation for armed conflict, indicating an imminent attack.³⁶ However, in modern times, a nuclear weapon program may develop via technological innovation rather than direct military deployment. A threshold nuclear power might be able to develop nuclear arms in rapid time without having announced weaponization until very near the end of the process. The Israeli strategic doctrine has increasingly stressed the danger of deferring to

³⁴ Treaty on the Non-Proliferation of Nuclear Weapons art. IV, July 1, 1968, 729 U.N.T.S. 161.

³⁵ Seyed Hossein Mousavian, *Iran and the United States: An Insider's View on the Failed Past and the Road to Peace* 187–95 (2014).

³⁶ Supra Note 22, at 6.

proof of weaponization as making defense impossible due to the devastating consequences of the nuclear attack.³⁷ The above argument acquired great currency after analysis in 2025 demonstrated that the Iranian breakout capability was reduced to just days under certain circumstances. Those supporting preemptive defense argued that the combination of enriched uranium technology, missiles, proxy agents, and hostile relations qualified as an imminent threat.

The legality of launching preemptive attacks on Iran is extremely controversial based on existing international law. As per the Caroline doctrine, any preemptive move should be against a situation which is "immediate and overwhelming," giving "no time for deliberation."³⁸ On the other hand, most assessments of the Iranian nuclear program still separate enrichment from actual weaponization. Even if Iran has attained threshold capability, it cannot be conclusively proven that it has immediate plans to use its nuclear arsenal or wage war. In addition, the fact that there are several diplomatic avenues open, sanctions regimes, IAEA mechanisms, and the processes of the Security Council renders claims that military intervention is the only option baseless. Under customary international law, the concept of need requires that non-military alternatives be exhausted or insufficient prior to the use of force.³⁹ It is hard to argue that preemption meets the requirement of need, given the inspections, negotiations, sanctions and other measures.

The proportionality constraint determines the legal status of the proposed airstrikes against the Iranian nuclear facilities. The Iranian enrichment sites like Natanz and Fordow are inextricably bound up with the country's civilian infrastructure and, in some cases, based in densely populated areas or underground complexes designed to survive any attack. An operation of such

³⁷ Supra Note 29, at 8.

³⁸ Supra Note 9, at 3.

³⁹ Supra Note 16, at 4.

magnitude is liable to produce many casualties among civilians, cause environmental damage, and provoke an escalation of hostilities involving proxies for Iran in the Middle East area.⁴⁰ In addition, the Iranians have always maintained that an attack on their nuclear facilities will be an act of aggression according to Article 2(4) of the United Nations Charter and, therefore, entitle Iran to use self-defense individually or collectively. Hence, it is possible to conclude that preemptive military strikes to prevent any regional upheaval can lead to an escalation of hostilities including Lebanon, Syria, Iraq, the Persian Gulf states, and even the global oil market. Therefore, proportionality should be evaluated in terms of both tactical considerations and strategic consequences of military action.

Indeed, Iran's nuclear dispute is a typical example of the broader shift in understanding of the concept of anticipatory self-defense. As modern security policy views latent capability of possessing nuclear weapons enough reason for military intervention, legal attention is shifting from actual military threats to technological possibilities and political assessments. This trend, however, raises concern about the loss of legal separation of the concepts of anticipatory and preventive wars, which had previously been important for imposing restrictions on unilateral force through the mechanism of international Charter-based order. At the same time, supporters of expanded right to anticipate view traditional notion of imminence too narrow for dealing with nuclear challenges of today's world, as failing to prove attack could leave whole population exposed to total destruction by a nuclear strike.

⁴⁰ Supra Note 3, at 1.

V. VENEZUELA, IRAN AND THE EXPANSION OF STRATEGIC PRE-EMPTION: SANCTIONS, PROXY NETWORKS AND THE TRANSFORMATION OF COLLECTIVE SECURITY

Anticipatory defense in the modern era cannot be seen through the lens of military attacks on facilities for nuclear power. Indeed, the changing geopolitical situation shows how anticipatory defense has become a more complex process involving economic sanctions, cyber activities, marine interception, sabotage, proxy wars, and technology containment. The formation of the Iran-Venezuela strategic alliance illustrates this development clearly. Both countries have been under severe sanctions by the West in particular, but the growing partnership of the two nations in politics, economics, and military affairs after the JCPOA has made many international security concerns go beyond the context of nuclear non-proliferation.⁴¹ Western politicians now consider the alliance of Iran and Venezuela as part of an anti-Western geopolitical bloc which consists of countries like Russia and China, as well as proxy militaries, cooperation in the energy sector, strategies of sanctions evasion, and development of drones. Modern concepts of anticipatory security pay attention to future armed attacks, strategic infrastructures, financial networks, and international alliances regarded as enablers of those attacks.

The connection between Iran and Venezuela became even more significant when the re-imposition of American sanctions caused both countries' economies to become cut off from international financial organizations. Initial cooperation was related to oil production, oil transportation, and methods for evasion of sanctions designed to overcome Western restrictions concerning banks and energy transfers.⁴² Over time, the relationship grew into a more thorough partnership

⁴¹ Suzanne Maloney, *Iran Reconsidered: The Nuclear Deal and the Future of Iranian Politics* 201–07 (2021).

⁴² Reuters, U.S. Targets Iran-Venezuela Oil Trade with New Sanctions (Dec. 30, 2025).

which included military technology, drones, intelligence exchange, and logistical systems. American officials maintained that technical assistance by the Iranian side made it possible for Venezuela to maintain vital energy resources despite international sanctions, whereas concerns emerged regarding potential cooperation in missiles and drones by Iran and Venezuela.⁴³ In spite of the controversy surrounding these claims politically, the current strategic understanding in the context of Western security policy is that Iran's alliances help it expand influence beyond the Middle East and build strong transnational networks capable of resisting economic pressure. These changes have made a huge impact on the development of the ideas of anticipatory security in unconventional settings.

Legal consequences of the practice of sanctions pre-emption are particularly significant as they blur the distinction between collectively sanctioned security actions according to the UN Charter and unilateral coercive measures that are performed outside any multilateral arrangements. Indeed, under Article 41 of the UN Charter, the Security Council is authorized to perform economic and diplomatic sanctions for ensuring international peace and security without resorting to military means.⁴⁴ Sanctions programs implemented against Iran and Venezuela today rely on unilateral and coalition arrangements rather than on an official sanction from the Security Council. The US government has become increasingly aggressive in its use of secondary sanctions, seizure of vessels, economic sanctions, export controls, and cyber operations to act as pre-emptive tools to counter the enemies before they can become powerful enough.⁴⁵ In other words, sanctions constitute another form of strategic pre-emption, since they attempt to weaken potential opponents before they gain any capabilities that

⁴³ U.S. Dep't of the Treasury, Treasury Targets Iran-Venezuela Drone Procurement Networks (2025).

⁴⁴ U.N. Charter art. 41.

⁴⁵ Richard Nephew, *The Art of Sanctions: A View from the Field* 89–104 (2018).

might endanger international security. Consequently, pre-emptive self-defense in the twenty-first century includes not just strikes and military engagements but also economic warfare and technological containment.

This move indicates major changes in the dynamics of conflicts among states. In this case, contemporary threats could emanate from a network of proxies, cyberwarfare capability, energy dependency, and hybrid war tactics instead of classic state-based attacks. The Iranian role through non-state actors in Lebanon, Syria, Iraq, and Yemen has had immense implications for Western and Israeli pre-emption policies regarding this threat.⁴⁶ Based on this perspective, the Iranian nuclear weapons program should not be viewed in a vacuum but as one of the elements of its broader strategy involving missiles, proxy threats, drones, and geopolitics. The Venezuelan situation, therefore, reinforces the perception that Iran seeks to establish strong international relations so that sanctions cannot undermine its ability to wage strategic rivalry against Western nations indefinitely. The modern pre-emptive policy has been moving towards targeting the massive structure behind a hypothetical threat rather than dealing with imminent actions only.

An increase in the use of preemptive security mechanisms beyond conventional warfare raises important concerns regarding issues of sovereignty, legitimacy, and the erosion of collective security norms. Many experts argue that the unilateral sanctions and coercive measures employed often circumvent the global framework resulting in humanitarian and economic consequences to civilians.⁴⁷ Moreover, the classification of economic networks, technical cooperation, and geopolitics as security threats allows the justifications of constant coercion based on hypothetical future dangers as opposed to concrete acts of violence. The

⁴⁶ Kenneth M. Pollack, *The Persian Puzzle: The Conflict Between Iran and America* 412–18 (2005).

⁴⁷ Joy Gordon, *Invisible War: The United States and the Iraq Sanctions* 45–57 (2010).

pattern emerges as part of a larger fear of preventive war where regimes use hypothetical future threats as a justification for their coercion. In the case of Iran, the gradual integration of sanctions, cyber attacks, covert operations, and even military threats is a testament to how anticipation has evolved from exceptional defense into a long-term strategy.

In summary, the connection between Iran and Venezuela serves to highlight the emergence of a major transformation in the realm of international security laws. Traditionally, Article 51 has been defined based on the sole premise that it refers to a direct physical attack between countries. However, recent trends suggest that anticipatory reasoning continues to be applied in realms involving money, technology, energy, cyberspace, and alliance. These developments reflect the growing relevance of geopolitical realism in international law, where legal doctrines change to adapt to emerging forms of competition and perceived threats to state existence. Such developments threaten the sanctity of the Charter-based legal regime since it creates confusion between collective measures and coercive intervention. When countries can justify anticipatory measures to conduct widespread economic attacks, sabotage, and military strikes on indirect threats, it is clear that limitations of the use of force can be undermined.

Where strategic pre-emption has moved outside the realm of military action, it suggests that the problem of anticipatory self-defense is not confined solely to nuclear facilities. In the case of current international law, there is a wider issue in terms of the change taking place in the definition of security. The example of Iran-Venezuela demonstrates the way in which modern anticipatory strategies operate within an interconnected series of systems involving sanctions, proxy wars, cyberattacks, and containment. Whether this represents a legitimate response to changing threats or a dangerous one, deviating from the principles of collective security, remains a vital legal question.

VI. THE CRISIS OF ARTICLE 51: THRESHOLD NUCLEAR STATES, STRATEGIC REALISM AND THE EROSION OF THE COLLECTIVE SECURITY FRAMEWORK

Modern development in anticipation self-defence reflects an extremely deep structural malfunction in the regime of legal regulation governing the use of force in accordance with the United Nations Charter. Article 51 served initially as an exemption to the general prohibition of use of force stated in Article 2(4) and enabled states to conduct their defense operations exclusively upon an occurrence of direct armed attack.⁴⁸ The postwar international legal order was expected to replace the unilateral evaluation of security threats with multilateral processes controlled by the United Nations Security Council. However, modern developments such as threshold nuclear states, asymmetrical warfare, transnational terrorism, cyber capacities, and proxy wars have rendered the system rather ineffective. Modern geopolitical realities impose strategic understanding of imminence and necessity which focuses on the state survival rather than compliance with the Charter provisions. Such a combination of the two conflicting approaches results into a situation described as the crisis of Article 51.

The example of the Iranian nuclear crisis makes this clear. Traditional understanding of self-defense involved attacks through visible deployment of troops or the use of force. On the other hand, threshold nuclear states operate within an environment of strategic ambiguity. These regimes might possess advanced enrichment technology, capability, missile delivery system, and potential for weaponization, without violating UN rules that prohibit manufacture of nuclear weapons.⁴⁹ Therefore, regimes that are facing threshold nuclear states increasingly argue that waiting for proof of weaponization or an attack is

⁴⁸ Supra Note 1, at 1.

⁴⁹ Supra Note 31, at 9.

impractical. The Israeli strategy emphasizes that the effects of nuclear weapons have completely changed the temporality element of self-defense.⁵⁰ This calls for redefinition of the concept of imminence in the current context, where a state can rapidly move from civilian enrichment to nuclear deterrence within shorter durations.

Such a reinterpretation of imminence is another example of growing influence of strategic realism upon modern practice of international law. The realist approach stresses survival, deterrence, and security above all other considerations, particularly those involving legal limitations in case of apparent existence of an existential threat.⁵¹ With regard to the case of Iran, the Israeli government and some Western political figures now see anticipatory self-defense no longer as a violation of international law but as a necessary measure ensuring peace and preventing potential catastrophe. The strikes conducted in 2025 against Iran's nuclear facilities were indicative in terms of proving that anticipation force in respect of emerging nuclear capabilities might find implicit or at least partial recognition from the international community, despite the absence of any formal legal support under the Charter regime.⁵² Contrary to such earlier events as Operation Opera in 1981, the response of the international community concerning actions undertaken in 2025 was far from unanimous rejection. Several Western countries took an ambivalent position in condemning escalation in the region, while pointing to their concerns related to Iran's enrichment program and missile capability at the same time.

Normalization of anticipatory force also presents serious challenges to the stability of the existing framework of international law. The charter system was created in such a manner that countries could not be given the discretion to use

⁵⁰ Supra Note 21, at 7.

⁵¹ Hans J. Morgenthau, *Politics Among Nations: The Struggle for Power and Peace* 25–39 (7th ed. 2006).

⁵² Supra Note 5, at 2.

force based on their own assessment of threats. If anticipatory self-defense includes things like latent nuclear capability, technological possibility, or even potential future danger, then there would be no clear line distinguishing between self-defense and an unlawful preemptive strike at all.⁵³ This would allow large governments to base their participation in armed conflict on vague security fears related to the development of technologies and other aspects which might be a cause of concern. In the era of multiple competing global powers, the risks become even more evident since countries like Russia and China repeatedly warned that such interpretations lead to the weakening of the principle banning the use of force and undermining of international organizations' ability to maintain collective security.⁵⁴ Countries in the Global South often see such concepts as a pretext for intervention employed by great powers.

This dilemma has become even more pronounced in light of hybrid warfare and proxy wars. In today's world, security threats rarely correspond to the classical framework of interstate war envisaged at the time of drawing up the Charter. Modern warfare increasingly involves cyber warfare, drones, non-state armed organizations, sabotage, economic coercion, and proxy militias; consequently, the lines between peace and armed conflict blur progressively.⁵⁵ Iran's geopolitical sway through Hezbollah, Shiite militias, and other non-state organizations has significantly shaped the thinking of Western countries and Israel on the issue of preemptive self-defense policies. Nuclear potential should be taken into account as part of an entire strategic system involving missile capabilities, proxy wars, and asymmetric retaliation. Therefore, preemptive doctrines have come to be seen not just as means to prevent imminent attack but also as tools for coping with broader strategic shifts believed to threaten geopolitical balance in the region.

⁵³ Supra Note 22, at 6.

⁵⁴ Supra Note 3, at 1.

⁵⁵ Supra Note 17, at 5.

Moreover, the rise of preemptive use of force poses risks to the legitimacy of international law, as it creates contradictions in its standards. Countries with nuclear capacities tend to enjoy leniency concerning military capacities, while adversary countries have strict regulations imposed on them, or even punishments and the threat of military action, despite the fact that there is no clear evidence of violations in the treaty.⁵⁶ This makes the idea of impartiality in the international legal regime questionable, since there are allegations that laws concerning the use of force are selective, and work only in favor of powerful countries. When it comes to Iran, topics of preemptive attacks become linked to questions of sanctions, regional hegemony, energy security, and other factors of strategic importance. As a result, discussions of self-defense laws become politicized.

The problem of Article 51 represents a core contradiction regarding the very future nature of the international legal order. On the one hand, it can be based on upholding the narrow Charter provisions and limiting the use of force by states to only those cases where the attack is actually made or authorized by the Security Council. On the other hand, it can represent an interpretation of new circumstances resulting from technological innovations, which would lead to a more flexible interpretation of anticipatory self-defense in order to address such threats as nuclear proliferation, hybrid warfare, and quick weaponization before any irreparable harm is caused. The situation in Iran represents a critical field in which both approaches compete. The way that the current state practice evolves into the expanded concept of force or not would greatly affect the future of collective security, sovereignty, and law.

⁵⁶ Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* 301–09 (2005).

VII. CONCLUSION AND POLICY RECOMMENDATIONS: REASSESSING ANTICIPATORY SELF-DEFENCE IN THE AGE OF THRESHOLD NUCLEAR STATES

Legitimacy of preemptive attacks against nuclear facilities is one of the most controversial questions raised in the realm of present-day international law. The growing conflict around Iran's nuclear plans serves as an example of how advancements in technology, geopolitics, and security concerns are radically altering traditional notions of self-defense, as provided for in Article 51 of the United Nations Charter. Indeed, the original intention of the Charter was to prohibit the use of force outside the provisions specified in it, but new challenges of modernity necessitate reconsideration of imminence, necessity, and proportionality. The Iranian nuclear case is a clear illustration of the growing tension between collective security and strategic realism. In fact, Israel and other countries from the West are viewing the possession of threshold nuclear capacity as a dangerous strategic reality, arguing that delaying measures until weaponization or even aggression will be ineffective for self-defense in the age of nuclear weapons. This approach represents a stark departure from the traditional Caroline formula, according to which there was required an imminent and powerful threat leaving little room for deliberation. Contemporary approaches stress technological capacities and rapid breakout capabilities of the opponent, thereby lowering the bar for using military force as a response.

The development of a wide variety of security measures in the realm of preemptive actions outside conventional combat operations has shifted the nature of modern conflict management. Contemporary pre-emption increasingly depends on economic, political, and informational measures such as sanctions, cyber operations, sabotage, proxy wars, financial pressure, and even technological containment. The partnership between Iran and Venezuela demonstrates how geopolitical relations, sanctions avoidance methods, and transnational security

policies are seen as part of the anticipatory security analysis. Therefore, pre-emption in the modern world involves more than just the prevention of an impending attack but the sabotage of the infrastructure that might be used for future attacks.

This process can have a significant impact on international law and security systems. The enlargement of self-defense principles to include theoretical nuclear weapons or possible future attacks may eventually destroy the prohibition of the use of force set forth by the UN Charter (Article 2(4)). If countries have the right to independently decide whether any scientific advances are considered to pose an immediate danger, there will be no differences between justified self-defense and preventive war whatsoever. This will affect international organizations, sovereign equality, and the entire post-World War II security order.

Indeed, Iran demonstrates that today's security environment is poorly regulated by the existing legal system. It is clear now that the traditional reading of Article 51 cannot account for the challenges that arise in the age of threshold nuclear powers, cyber warfare, proxy wars, and rapid technological developments. However, disregarding the existing legal restrictions may create a dangerous precedent for the world's most powerful countries to justify their actions based on highly subjective considerations regarding national security. In order to prevent such outcomes, international law needs to maintain a balance between the protection of the legal framework of the UN Charter and new types of threats. There are several aspects that need to be changed. First, international law requires clearer guidelines concerning the concept of imminence within the context of the proliferation of nuclear weapons and acquisition of the capacity for creating threshold nuclear weapons. Second, the role of the International Atomic Energy Agency must be bolstered through the expansion of its mandate concerning the verification of nuclear programs. Finally, there needs to be renewed diplomacy and negotiation mechanisms such as the Joint Comprehensive Plan of Action.

Above all, the international focus should be on decision-making in the UN Security Council.

The future of anticipatory self-defense will in any case impact the direction of the international legal system. The JCPOA-era dilemma involving Iran highlights that international law now faces a fork in the road regarding whether to preserve the restrictive collective security model of the UN Charter in face of an increasingly prevalent body of strategic doctrine centered on pre-emption and driven by realpolitik considerations. It is questionable whether the development of customary practice into a new norm permitting anticipatory military action against threshold nuclear states will ever occur. Clearly, without further doctrinal clarity and renewed emphasis on multilateralism, the continued growth of pre-emptive techniques in security policy endangers the prohibition on the use of force and international stability.