

Dilemmas of Defense: The U.S. Role in the Iran-Israel Conflict

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January 24, 2025

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On April 13, 2024, the Islamic Republic of Iran carried out an unprecedented operation, launching hundreds of drones and cruise missiles toward Israel. Reports indicate that Israel intercepted the majority of these drones and missiles with assistance from the United States, Britain, and Jordan. Various analyses reveal that “[t]he United States ... began intercepting drones and missiles outside of Israeli airspace” (p. 2).

Additionally, on October 1st, Iran launched another missile attack on Israel. A U.S. defense official, speaking anonymously, reported that U.S. destroyers stationed in the eastern Mediterranean Sea assisted in intercepting the Iranian ballistic missiles.

The U.S. intervention in the conflict between Iran and Israel raises important questions about the status of the United States as a neutral State in this conflict. Specifically, to what extent can U.S. involvement in the Iran-Israel conflict be viewed through the lens of the law of neutrality, which “regulates the relationship between States fighting in an [international armed conflict] (belligerents) and States not participating in the conflict (neutrals)” (for a brief overview of the law of neutrality, see e.g. [here](#) and [here](#))?

Hague Conventions V and XIII codify the law of neutrality and are widely accepted by States, leaving no doubt about its customary status. This broad acceptance underscores its foundational role in international law. However, the relevance of neutrality is not limited to *jus in bello*; it also extends to issues concerning the use of force (*jus ad bellum*). This post examines the question of neutrality within the realm of *jus ad bellum* in the Iran-Israel conflict and assesses the extent to which U.S. intervention in this conflict is justified under the collective security framework of the UN Charter, specifically Article 51. Notably, as a matter of scope and necessity, we have excluded questions of neutrality concerning other States involved in intercepting drone strikes.

The U.S. Ironclad Commitment to Israel's Security

The United States and Israel have a longstanding relationship marked by deep political, military, and economic ties. The U.S. has consistently reaffirmed its commitment to Israel's security (see e.g. here and here), as evidenced by statements and actions such as intercepting Iranian projectiles on October 1. President Joe Biden underscored this commitment by describing it as "ironclad." U.S. Secretary of State Antony Blinken echoed this sentiment during his visit to Israel following the October 7, 2023, Israel-Hamas conflict.

However, beyond the rhetoric, the central question is the extent to which the United States is legally justified in its direct involvement in the conflict. To address this question, it may be necessary to examine the security agreements between the U.S. and Israel (see e.g. here, p. 218). These agreements could potentially provide a legal framework or justification for U.S. actions, particularly given their longstanding defense commitments and mutual strategic interests.

Three types of agreements among States typically regulate security arrangements among States, including: "(1) mutual assistance; (2) military alliances; and (3) guarantees" (p. 283). These agreements, which may grant a right of intervention to a State in some form, can potentially conflict with the principle of permanent neutrality. However, the obligations set forth in these treaties are subordinate to States' obligations under the UN Charter and cannot override the constraints on the use of force contained in Articles 2(4) and 51 of the UN Charter.

Furthermore, it is reasonable to conclude that the current agreements between the United States and Israel do not impose an obligation of direct military intervention on either party. The content of these agreements primarily focuses on areas such as substantial military aid to Israel, including advanced weaponry and technology, a strong intelligence-sharing partnership, and the presence of U.S. military equipment in Israel. This arrangement also facilitates the provision of various munitions and logistical support for U.S. operations in the region (see, e.g. here).

However, it appears that none of these mutual defense agreements between the United States and Israel includes a collective self-defense clause akin to Article 5 of the North Atlantic Treaty. Article 5 explicitly states, "... an armed attack against [a member] shall be considered an attack against them all and ... each ... will assist the Party or Parties so attacked by taking ... such action as it deems necessary, including the use of armed force... ." This absence raises questions about the precise legal basis for U.S. involvement in defending Israel, particularly in the context of actions like intercepting Iranian missiles and drones. Without a provision explicitly mandating collective defense, the justification for such measures may rest on rules of international law governing the use of force.

Neutrality in the Context of *Jus ad bellum*: Collective Self-defense

The relationship between neutrality and *jus ad bellum* rules has been the subject of considerable scrutiny by scholars. There is a general consensus among international law experts that international law "enables neutral States to invoke the right of collective self-defense [as enshrined in Article 51 of the UN Charter, as well as customary international law (CIL)] as a justification for violations of neutral obligations by supporting one of the belligerent parties" (p. 132-133; see also Department of Defense (DoD), Law of War Manual, § 15.2.4). The International Court of Justice (ICJ), in its landmark judgment in the Paramilitary Activities case, introduces a crucial caveat to the rules of military assistance by requiring a request from the victim State. The Court stated, "... there is no rule permitting the exercise of collective self-defence in the absence of a request by the State which regards itself as the victim of an armed attack ..." (para. 199).

It has been argued that a State does not necessarily lose its neutral status by providing unneutral support in the exercise of the right of collective self-defense. The threshold for losing neutrality status has become a focal point of intense scholarly debate, particularly in light of the Ukraine conflict (see e.g. here, here, here, and, here). However, it is self-evident that direct military intervention precludes a State from maintaining neutrality.

The ICJ judgment in the *Paramilitary Activities* case reveals a certain degree of ambiguity. Specifically, the formula proposed by the ICJ relies on States' subjective determination of whether they consider themselves victims of an armed attack. A State can, at any moment, regard itself as a victim of armed attack by another State, even if those actions align entirely with international law. Nevertheless, in practice, the UN Charter governs States' obligations in collective self-defense. The prominence of the UN Charter in governing the use of force implies that a mere mutual offense-defense arrangement is insufficient to form a legal basis for collective self-defense. In other words, providing assistance to a victim State requires certainty that such support is a direct response to an act of aggression. This proposition draws some support from instructive instruments such as UN Resolution 3314, which emphasizes defining aggression as a requirement for "the rendering of assistance to the victim."

If the Iranian attacks are deemed acts of aggression, Israel would qualify as a victim State, entitling it to the right of individual or collective self-defense, including the right to request forcible assistance by other States ([here](#)). From its communications to the UN Security Council, it is evident the United States views both the April and October attacks as acts of aggression, justifying Israel's right to self-defense and the U.S. direct involvement and assistance. In this regard, the U.S. ambassador to the UN explicitly stated the U.S. "will not hesitate to act in self-defense. Let there be no confusion. The United States does not want to see further escalation. We believe this should be the end of the direct exchange of fire between Israel and Iran." This stance is compatible with Israel's position while standing in stark contrast to the perspective of the Islamic Republic of Iran's envoy to the UN, who described the United States as "complicit" in acts of aggression.

Importantly, if the U.S. argument regarding collective self-defense is accepted, its intervention appears to have satisfied the necessity, proportionality, and immediacy requirements of self-defense. These requirements dictate that "a defensive use of force may not be too early (imminency) or too late (immediacy)" ([here](#)). In this context, the United States could argue that its actions were limited to intercepting Iranian projectiles during a period of established danger, aimed solely at repelling the attack, and that it did not undertake any further actions against Iran.

Furthermore, under this reasoning, the United States did not require a mutual defense pact with Israel to legitimize its actions, as the legal foundation for such measures is well-established under self-defense rules. However, this argument is not without its complexities, primarily due to the nature of the "tit-for-tat exchange," which makes it exceedingly difficult to determine which party qualifies as the aggressor in this conflict. This may necessitate a separate designation of aggression for each round of hostilities, a process with significant ramifications. For instance, the application of the "qualified neutrality" doctrine—allowing various degrees of intervention when there is clear-cut aggression—depends heavily on such designations. A Security Council resolution under Article 39 of the UN Charter would provide substantial support for claims of qualified neutrality. Yet, as demonstrated in the Ukraine conflict, States may invoke qualified neutrality even in the absence of a binding Security Council resolution.

While determinations made by the Security Council are not a definitive requirement in designating aggressors, their absence shifts substantial weight to States' subjective determinations. Such a dynamic risks prioritizing geopolitical considerations over legal principles. This does not mean the United States violated its obligations under international law by providing military support to Israel following the April and October attacks by the Islamic Republic of Iran. However, it suggests the United States must be fully convinced that, in supporting Israel against such attacks, it was fulfilling an *erga omnes* obligation, activated despite the lack of an explicit Security Council designation. The United States appears to firmly believe its involvement in the Iran-Israel conflict aligns with Israel's right to self-defense ([here](#)).

Concluding Thoughts

Overall, the situation on the ground does not present a clear picture, at least with respect to the direct conflict between Iran and Israel. The danger here lies in the growing reliance on States' subjective assessments in matters concerning the collective use of force. In this context, the conflict between Iran and Israel represents a unique case where the paradigm of reprisals is gradually supplanting the discourse on self-defense. Despite its distinctiveness, this conflict is unlikely to be the last of its kind.

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