

UNILATERAL ENFORCEMENT OF UN SECURITY COUNCIL RESOLUTIONS: THE CASE OF OPERATION IRAQI FREEDOM

Alex Ansong, PhD

Head of Law Centres; Lecturer

Ghana Institute of Management and Public Administration

aansong@gimpa.edu.gh

(Received: October 2018; Accepted December 2018)

Abstract: The prohibition of armed aggression under Article 2(2) of the United Nations Charter is one of the most important developments in international law and international relations in the modern era. The fact that the right to wage war is no longer accepted as falling within the sovereignty of the state has ushered in an appreciably stable international order based on the rule of law and not the rule of might. While states obviously still engage in warfare and numerous wars have been fought by states in the era of the UN, the very fact that the prohibition of armed aggression has assumed universal acceptance as customary international law is a notable achievement. In spite of the prohibition of armed aggression under the UN Charter, self-defence and collective action mandated by the UN Security Council serve as notable exceptions. The US-led invasion of Iraq in 2003 (i.e. Operation Iraqi Freedom) was peculiar because, the justification for the invasion hinged on the enforcement of UN Security Council Resolutions. This justification thus brought to the fore whether, under international law, there was the right to unilaterally enforce Security Council Resolutions. In the current resurgence of unilateralism typified by the US Trump-led withdrawal or threat of withdrawal from multilateral systems of international governance and cooperation, it is important to reiterate the lessons of unilateralism epitomized by the 2003 invasion of Iraq and the instabilities that have become offshoots of this invasion – e.g. the creation of monsters like the so-called Islamic State. This article discusses the resort to unilateralism under the guise of enforcing UN Security Council resolutions. It also engages in a brief discussion on the justifications for war prior to the UN Charter and the provisions on the use of force prescribed in the Charter. It uses the US-led invasion of Iraq in 2003 as a case study to shed light on legality of unilateral enforcement of UN Security Council Resolutions.

Keywords: unilateral enforcement of UN Security Council resolutions, use of force

1. Introduction

The introductory part of this article takes a very brief historical look at the unilateral resort to the use of force prior to the coming into force of the United Nations system. It is hoped that this historical preamble will help put contemporary resort to armed force within the United Nations system (specifically, justifications

Ansong A. (2018)

Unilateral enforcement of un security council resolutions: the case of operation iraqi freedom

of the use of force based on enforcement of Security Council Resolutions) into a historical perspective.

The advent of an organised and systematic international legal system (i.e. international law) and the recognition of the equality and sovereignty of states has consigned such justifications of aggression or the armed use of force, like the just war doctrine, to a relic of history (Hongsheng 2006). Prior to the outbreak of World War II, (and the advent of the United Nations system) the use of force or the waging of war was viewed as an integral part of the legitimate exercise of power by the state once such exercise of power was conducted within the confines of the laws regulating the waging of war in that era (Mullerson and Scheffer, 1995). Under the League of Nations for instance, a system of dispute settlement was put into place that aimed at achieving a peaceful settlement to disputes, and war could only be waged after a three-month period when a peaceful settlement of disputes has not been achieved. In spite of the fact that the Kellogg-Briand Pact of 1928 was signed on the foundation of non-aggression, it could not prevent unilateral resort to armed aggression when some key signatories and states like Japan (the invasion of Manchuria in 1931), Italy (the invasion of Ethiopia in 1935) and Germany (the invasion of Poland in 1939), resorted to the unilateral use of armed force and effectively negated the principles of non-aggression espoused by the 1928 Pact (Mullerson and Scheffer, 1995).

The establishment of the United Nations system was precipitated by the horrific results of World War I and World War II, and the obvious inability of the international community, organised under the defunct League of Nations to prevent the unilateral resort to aggression that triggered the two World Wars. Thus one of the foundational objectives for the formation of the UN was to prevent the occurrence of aggression and to ensure international collective action in dealing with situations that threaten the peace and security of the international community. Article 1(1) of the UN Charter for instance provides that, one of the main objectives of the UN is:

To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace.

Although unilateral resort to the use of force is proscribed under the UN system, many armed conflicts have been carried out within the era of the UN based on justifications like self-defence (Ochoa-Ruiz and Salamanca-Aguado 2005). The US led war against Iraq in 2003 (i.e. Operation Iraqi Freedom) is peculiar because the justification was based on enforcement of UN Security Council Resolutions (Yoo 2003).

2. The Law Relating to the Use of Force in the UN System

Generally, Article 2(4) of the UN Charter prohibits the threat or use of force or aggression by states in their relations with other states. Article 2(4) states that:

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

In shedding more light on what constitutes 'force' as used in Article 2 (4), the 1970 Declaration on the Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations, provided *inter alia* that the following acts constitute force (or aggression), in the meaning of Article 2 (4):

1. Wars of Aggression;
2. The threat or use of force to violate existing international frontiers (including demarcation or armistice lines) or to solve disputes;
3. Acts of reprisals involving the use of force;
4. Force used to deprive peoples of their right to self-determination and independence;
5. Organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another state's territory (Shaw 2003, p.1019).

Although the 1970 Declaration is not a binding legal document in international law, it serves the purpose of being an interpretative tool in conceptualising what constitutes 'force' under Article 2(4) of the UN Charter (Shaw 2003). The above list, constituting acts of force or aggression is evidently expansive, though non-exhaustive and may thus be susceptible to definitional problems. Article 39 of the UN Charter thus empowers the Security Council to determine the existence of a threat to the peace, breach of the peace, or an act of aggression:

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken to maintain or restore international peace and security.

In effect, in the absence of the Security Council being able to agree or determine the existence of a threat, breach or an act of aggression, further acts by the Council may not be secured to deal with a supposed aggression within the collective UN framework. This poses a problem as a veto by one of the Permanent Members of the Security Council, can effectively cause a failure to determine an act as one that constitutes aggression. Claus Kress has thus argued that:

(...) the politically motivated failure of the Security Council to characterize Iraq's invasion of Kuwait as an act of aggression offers an excellent illustration of the unfortunate results that might follow if the Security Council's determination of an

Ansong A. (2018)

Unilateral enforcement of un security council resolutions: the case of operation iraqi freedom

act of aggression is recognised as a procedural prerequisite for the commencement of investigations into an alleged ... aggression (Kress 2004, p.49).

Though the use of armed force is generally proscribed under Article 2(4) of the UN Charter, it is permissible in two situations: firstly, where a state (or states) acts in individual (or collective) self-defence under Article 51, and secondly, where the Security Council authorizes the use of force by the issuance of a Resolution authorizing such use of force under Article 42 of the UN Charter.

Article 51 states in its relevant part that:

Nothing 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.

Obviously, though Article 51 expressly recognizes the rights of states to self-defence, subsequent action of the Security Council in a matter of self-defence is not proscribed. The Security Council can actually intervene even in cases where a state is asserting its right of self defence, if the goal of peace and security is justified, noting that such goals are foundational objectives of the UN Charter.

The right of self-defence contained in Article 51 is silent on whether self-defence should be resorted to only when actual aggression has occurred, or whether anticipatory self-defence can be resorted to in the face of a threat of aggression. Notably, Article 2(4) condemns not only actual aggression or use of force but also the threat of aggression and so does the 1970 Declaration. As stated earlier, the 1970 Declaration is not a legally binding document, though it can be an important interpretative document. Aggression may thus be conceived of in actual and potential terms, in which case self-defence may also be conceived of in actual or anticipatory terms.

It must however be said that authorities are divided on the issue of anticipatory self-defence. The Security Council in Resolution 481/1991 for instance, condemned the Israeli bombing of an Iraqi nuclear reactor though Israel had justified its action on the basis of anticipatory self-defence. It is however worthy of note that though the US voted for the Security Council Resolution, it stated that its vote was not motivated by Israel's use of anticipatory self-defence per se, but rather that Israel had not fully exhausted a peaceful means for resolving the issue that instigated its resort to the use of force (Cassese 2001).

Antonio Cassese, a former President of the International Criminal Tribunal for the Former Yugoslavia argues that "in the case of anticipatory self-defence, it is more judicious to consider such action as *legally prohibited* while admittedly knowing that there may be cases where breaches of the prohibition may be justified on moral and political grounds" (Cassese 2001, p.311). Ingrid Detter on the other hand views anticipatory self-defence as falling under the prohibitions of the use of force under Article 2 (4) of the UN Charter, hence making it illegal (Detter 2000).

Ansong A. (2018)

Unilateral enforcement of un security council resolutions: the case of operation iraqi freedom

According to *Oppenheim's International Law*:

(...) while anticipatory action in self-defence is normally unlawful, it is not necessarily unlawful in all circumstances, the matter depending on the facts of the situation including in particular the seriousness of the threat and the degree to which pre-emptive action is really necessary and is the only way of avoiding that serious threat; the requirements of necessity and proportionality are probably even more pressing in relation to anticipatory self-defence than they are in other circumstances (Jennings and Watts 1991, pp.41-42).

Of particular importance to the discussion in this article is Article 42, which empowers the UN Security Council to "take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security". Action taken by the Security Council under Article 42 "may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations" (Article 42 of the Charter of the United Nations). The difference between the two derogations to the prohibition on the use of force is that whereas, Article 42 requires a decision by the UN Security Council for the use of force (and is thus under the auspices of the UN), the use of force for purposes of self-defence under Article 51 does not require a decision of the Security Council. Thus whereas unilateral action in the use of force is allowed under Article 51, the same cannot be said of Article 42 as it relates to collective action under the Security Council and by extension, the UN.

The use of force under Article 42 is also dependent on provisions set under Article 39, which requires the Security Council to determine an alleged act as constituting a breach of the peace or an act of aggression before a decision under Article 42 to use force can be reached for the purpose of restoring peace and security.

A case in point of the above scenario is the multilateral force against the Taliban regime in Afghanistan led by the US, after the September 11 terrorist attacks in the US. The Security Council, in Resolution 1368 (2001) stated *inter alia* that the Council:

Calls on all States to work together urgently to bring to justice the perpetrators, organizers and sponsors of these terrorist attacks and *stresses* that those responsible for aiding, supporting or harbouring the perpetrators, organizers and sponsors of these acts will be held accountable;" and "Expresses its readiness to take all necessary steps to respond to the terrorist attacks of 11 September 2001, and to combat all forms of terrorism, in accordance with its responsibilities under the Charter of the United Nations (UN Security Council Resolution 1368 (2001), para. 3 and 5).

Resolution 1368 thus determined the terrorist acts as acts of aggression as required by Article 39 of the UN Charter, and sanctioned the use of force under Article 42 'in accordance with its responsibilities' of maintaining international peace and security (UN Security Council Resolution 1368 (2001), para.5). It is worthy of note

Ansong A. (2018)

Unilateral enforcement of un security council resolutions: the case of operation iraqi freedom

that in spite of Claus Kress' observation that reaching agreement on the determination of acts of aggression in the Security Council is a highly political and polarized undertaking (due to the use of veto by Permanent Members), Resolution 1368 provided an opportunity for collective action in the Security Council and the UN system in general.

Rosalyn Higgins has thus argued that though the use of the veto by the five Permanent Members of the Security Council has been viewed as being problematic in arriving at decisions under Article 42 of the UN Charter, "the veto is an integral part of what was provided for in the Charter: the Permanent Members were certainly intended to have this power to control the use of force by the Security Council" (Higgins 1994, p.262).

Christine Gray further argues that the Security Council, during and after the Cold War, has generally avoided determining an aggressor in inter-state conflicts (Gray 2002). Consequently, one of the logical implications of determining an aggressor, i.e. the use of force under Article 42, to restore peace and security has not been frequent and thus lacks an established tradition of precedence. The resort to the use of armed force by the US-led multilateral force under authorization of the Security Council, in Operation Desert Storm was thus a peculiar situation as affirmed by the UN Secretary General:

The Iraqi invasion and occupation of Kuwait was the first instance since the founding of the Organisation in which one Member State sought to completely overpower and annex another. The unique demands presented by this situation have summoned forth innovative measures which have given practical expression to the Charter's concepts of how international peace and security might be maintained (The United Nations Blue Book Series Vol. IX 1996, p.3).

It must be argued though that as novel as the resort to the use of force in Iraq under the mandate of the UN may appear, it was not the first of its kind. In 1950 for instance, the UN Security Council voted for the use of force in Korea after the Communist North Korea invaded the South. Notably, Russia had boycotted the Security Council in 1950 and as such could not use its veto power to block the Security Council from passing a resolution to use force in Korea.

Also in 1966, the Security Council passed a resolution that mandated the use of force, if necessary, to prevent shipment of oil to Rhodesia (now Zimbabwe), which was then under White minority rule (Security Council Resolution 221, 1966). The Resolution called upon:

the Government of the United Kingdom of Great Britain and Northern Ireland to prevent, by the use of force if necessary, the arrival at Beira of vessels reasonably believed to be carrying oil destined for Southern Rhodesia, and empowers the United Kingdom to arrest and detain the tanker known as *Joanna V* upon her departure from Beira in the event her oil is discharged there (Security Council Resolution 221 1966, para.5).

Ansong A. (2018)

Unilateral enforcement of un security council resolutions: the case of operation iraqi freedom

Prior to the issuance of Resolution 221, the Security Council had decided on Resolution 217 (1965) which imposed economic and diplomatic sanctions on Southern Rhodesia. Resolution 221, was thus issued to enforce the economic and diplomatic sanctions and in this particular case, a single Member of the UN – the United Kingdom – was empowered under Article 42, to use force if necessary.

3. Factual Background to the Commencement of Operation Iraqi Freedom

After the invasion and annexation of Kuwait by Iraq on August 2 1990, the Security Council adopted the first of numerous Resolutions – Resolution 660 – which condemned the Iraqi invasion and demanded *inter alia* “that Iraq withdraw immediately and unconditionally all its forces to the positions in which they were located on 1 August 1990” (Security Council Resolution 660 1990, para.2). After failing to secure Iraq’s compliance with its Resolutions, and a peaceful settlement proved impossible, the Security Council, acting under Chapter VII of the UN Charter (specifically Article 42) adopted Resolution 678 which authorised:

Member States co-operating with the Government of Kuwait, unless Iraq on or before 15 January 1991 fully implements, as set forth in paragraph 1 above, the foregoing resolutions, to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area.

The use of armed force mandated by Resolution 678 culminated in Operation Desert Storm which freed Kuwait of the Iraqi occupation. The completion of the freeing of Kuwait was duly recognised by the Security Council when it adopted Resolution 687 affirming a formal conditional cease-fire.

Iraq was obligated by Resolution 687 to, *inter alia*, unconditionally destroy, remove, or render harmless all chemical and biological weapons, all ballistic missiles which have a range exceeding 150 kilometres, and to unconditionally subject itself to international supervision (Security Council Resolution 687 1991, para.8). Iraq was also unconditionally obligated not to use, develop construct, or acquire any of the above stated weapons or nuclear weapons or nuclear-weapons-usable material (Security Council Resolution 687 1991, paras. 10 and 12).

In order to ensure the efficacy of the mandatory international inspection of Iraq’s capacity to develop and use chemical, biological, nuclear and ballistic weapons, (i.e. weapons of mass destruction) Resolution 687 provided for the setting up of a “Special Commission, which shall carry out immediate on-site inspection of Iraq’s biological, chemical and missile capabilities, based on Iraq’s declarations and the designation of any additional locations by the Special Commission itself” (Security Council Resolution 687 1991, para. 9 (b)(i)).

Under the authority of the above stated provision in Resolution 687 – i.e. paragraph 9 (b)(i) – the United Nations Special Commission (UNSCOM) was set up to cooperate with the International Atomic Energy Agency (IAEA) in order to effect

Ansong A. (2018)

Unilateral enforcement of un security council resolutions: the case of operation iraqi freedom

the on site inspection of Iraq's weapons of mass destruction. The above stated conditions, *inter alia*, formed the basis of the official cease-fire in Operation Desert Storm. On April 6 1991, Iraq unconditionally accepted the terms contained in Security Council Resolution 687.

A sequence of events occurring after Iraq's unconditional acceptance of Resolution 687 resulted in the use of military force within the territorial boundary of Iraq, by the UK, France and the US. These involvements within the territory of Iraq engendered a lot of debate bordering on the legality of the resort to armed force, whereas other views reflected the necessity of enforcement of peace and security in the Middle East region, the responsibility of the international community to respond to, and prevent humanitarian disasters, and the need to enforce Security Council Resolutions relating to the disarming of Iraq from its weapons of mass destruction.

In January 1993, the Secretary General of the UN reported that Iraq had violated the Kuwaiti frontier contrary to the conditions set in Resolutions 686 and 687 which brought about the cease-fire in Operation Desert Storm (Higgins 1994, p.59). Iraq was also reported to be interfering with UN flights that were conducting inspection of Iraq's weapons programme. Though the Security Council did not issue a new resolution, it issued a statement in which it warned Iraq of "serious consequences which would ensue from failure to comply with its obligations" (quoted in Higgins 1994, p.259).

Rosalyn Higgins has posited that the statement by the Security Council could not be viewed as a mandate to use force against Iraq as there was no reference in the language of the statement to the use of 'all necessary means' (Higgins 1995). Such an express reference would have been enough to use force against Iraq as 'all means' would reasonably encompass the use of armed force as well, if necessary. Thus the warning of 'serious consequences' was short of authorizing the use of armed force against Iraq. In spite of this apparent lack of authorization to use force, the US, France and United Kingdom resorted to the use of military force in various parts of Iraq (Higgins 1995). The US defended its military operation carried out fifteen miles away from Baghdad on the basis of compliance with Security Council Resolutions relating to Iraq. France and the United Kingdom also defended their setting up of a no-fly zone in Iraq on the basis of self defence. The Saddam Hussein regime had carried out attacks on Kurds and Shias in Iraq, causing a humanitarian and refugee crisis and insecurity in the Middle East. The French and United Kingdom's military presence in Iraq were thus for the purpose of ensuring humanitarian relief to the affected areas and prevent further attacks of the Iraqi military.

Though the morality of the United Kingdom and French action is evident, the fact remains that it lacked a legal backing from the Security Council under Chapter VII of the UN Charter. Perhaps, it is for their inability to find a defence under Article

Ansong A. (2018)

Unilateral enforcement of un security council resolutions: the case of operation iraqi freedom

42 of the UN Charter that precipitated their resort to the justification of self-defence which would make their action legal under Article 51.

Apart from the above breaches related above, Iraq continued to defy requirements and conditions under Resolution 687 and persistently remained in breach of them. It failed to cooperate with weapons inspectors operating under UNSCOM. The successor UN Commission to UNSCOM – the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) – which was established by Security Council Resolution 1284, did not also receive the cooperation of the Saddam Hussein regime regarding weapons inspections. Cooperation with the IAEA was no better.

Against this background of continues defiance and persistent breach of a myriad of Security Council Resolutions, the Security Council issued Resolution 1441 (2002) which decided:

that Iraq has been and remains in material breach of its obligations under relevant resolutions, including resolution 687 (1991), in particular through Iraq's failure to cooperate with United Nations inspectors and the IAEA, and to complete the actions required under paragraphs 8 to 13 of resolution 687 (1991) (Security Council Resolution 1441 2002, para.1).

The Resolution was also meant to afford Iraq "a final opportunity to comply with its disarmament obligations under relevant resolutions" of the Security Council (Security Council Resolution 1441 2002, para.2). It is however important to note that Resolution 1441 was silent on the use of force by the Security Council should Iraq continue to breach its obligations under relevant resolutions issued in the past. In the absence of a provision to use force in Resolution 1441, any resort to the use of force under Article 42 of the UN Charter would be illegal. Also as Rosalyn Higgins has opined, "there is no entitlement in the hands of individual Members of the United Nations to enforce prior Security Council Resolutions by the use of force" (Higgins 1994, p.259).

4. The Legality of Operation Iraqi Freedom

The argument presented by the US and its allies in the Iraqi invasion (i.e. Operation Iraqi Freedom), are two pronged:

Firstly, the US argued that Iraq had breached 16 previous Security Council Resolutions, and has thus refused to comply with the requirement of disarming itself of weapons of mass destruction. According to the then US Secretary of State, Colin Powell, in his address to the UN Security Council on February 5 2003, the purpose of the UN Resolution 1441: "was to disarm Iraq of its weapons of mass destruction. Iraq had already been found guilty of material breach of its obligations, stretching back over 16 previous resolutions and 12 years" (Quoted by Taylor n.d.). Secondly, the US argued that Iraq was a threat to the peace and security of the US and by obvious extension it sort a reliance on the provisions of self-defence under

Ansong A. (2018)

Unilateral enforcement of UN security council resolutions: the case of operation iraqi freedom

Article 51 of the UN Charter, to justify its resort to armed force against Iraq. However Iraq had not launched any military attack against the US or its allies to justify a resort to the use of individual or collective self-defence. Also there was no known imminent attack being waged by Iraq against the US or its allies. Thus a resort to the use of even the controversial anticipatory self-defence did not arise. However, in his 'State of the Union' address delivered on January 28 2003, President Bush presented the US's justification of the use of anticipatory self-defence -

"Before September the 11th, many in the world believed that Saddam Hussein could be contained. But chemical agents, lethal viruses and shadowy terrorist networks are not easily contained. Imagine those 19 hijackers with other weapons and other plans -- this time armed by Saddam Hussein. It would take one vial, one canister, one crate slipped into this country to bring a day of horror like none we have ever known. We will do everything in our power to make sure that that day never comes.

Some have said we must not act until the threat is imminent. Since when have terrorists and tyrants announced their intentions, politely putting us on notice before they strike? If this threat is permitted to fully and suddenly emerge, all actions, all words, and all recriminations would come too late. Trusting in the sanity and restraint of Saddam Hussein is not a strategy, and it is not an option" (President George W. Bush's 'State of the Union' Address, January 28 2003).

From the above, it is evident that US's (and UK) justification for undertaking Operation Iraqi Freedom had sort justifications under provisions in Article 42 and Article 51 of the UN Charter. As discussed earlier, these are the only provisions that grant derogations from the general prohibition of the use of force contained in Article 2(4). Thus, the legality of Operation Iraqi Freedom stands or falls by a test of these derogations.

Evidently, as there was no express authorization by the Security Council mandating the undertaking of Operation Iraqi Freedom, the position taken in this article is in consonance with Higgins' assertion that "there is no entitlement in the hands of individual members of the United Nations to enforce prior Security Council resolutions by the use of force". Thus in spite of the argument that Iraq had materially breached 16 Security Council Resolution over a period of 12 years, there still remained no legal basis to justify a resort to the use of force against Iraq, except by express authorization by the Security Council as evidenced by precedents like Resolutions 221 (1966) and 678 (1991).

Also, as discussed above, the use of military force by the US in 1993 in Iraq did not have a legal basis, though the argument was that of enforcement of prior Security Council resolutions. Thus in terms of both the letter of the UN Charter and precedence, the legality of Operation Iraqi Freedom cannot be defended.

Ansong A. (2018)

Unilateral enforcement of UN Security Council resolutions: the case of Operation Iraqi Freedom

The justification of self-defence under Article 51 however has quite a long list of precedence stretching back to the Cold War era, though its use has been very controversial.

The former Soviet Union for instance defended its invasion of Czechoslovakia in 1968 on the basis of self-defence. It also justified its invasion of Afghanistan in 1979 on the same basis. Resort to the Article 51 provision of self-defence was used by the US in the Vietnam War, the invasion of Grenada in 1983, the shelling of Beirut in 1983, the involvement in the civil war in Nicaragua during the 1980s and the bombardment of Tripoli in 1986. These supposed acts of self-defence were criticised by the international community and thus do not serve as good precedents for justifying the US led Operation Iraqi Freedom.

5. Conclusions

This article has discussed the notion unilateral enforcement of prior UN Security Council resolutions within the broader context of the prohibition of war under the UN Charter and the limited exceptions that allow states to resort to war. The position has been taken earlier in the discussion that the UN Charter and precedence in the UN system do not entitle individual members to use force in a bid to enforce prior Security Council resolutions. Operation Iraqi Freedom was thus a reflection of an unbridled and illegal use of armed force by the US and its allies, a state of affairs that is unfortunately becoming an increasing phenomenon in the present unipolar world. The use of controversial justifications of self-defence is not a recent phenomenon, though it still remains unjustified whenever it is resorted to without incontrovertible justification. The justification of the use of force to implement Security Council resolutions however is a more recent phenomenon that can be traced to the aftermath of the invasion of Kuwait by Iraq, and the subsequent Security Council resolutions issued to ensure peace and security in the Persian Gulf region and to ensure the disarming of Iraq's weapons of mass destruction.

The principles of non-aggression and prohibitions against the use of threats of force still remain cardinal pillars in the UN system. Compliance with these principles, especially by the five permanent members of the UN Security Council and their surrogates will go a long way to establish a positive precedence in the UN system and hopefully contribute to a more peaceful, secured and safer world.

6. References

1. Cassese, A., (2001), *International Law* Oxford: Oxford University Press
2. Detter, I., (2000), *The Law of War*, Cambridge, Cambridge University Press, 2nd edition
3. Gray, C., (2002), "From Unity to Polarization: International Law and the Use of Force in Iraq" *European Journal of International Law*, Vol.13, No.1, 1-19
4. Higgins, R., (1994), *Problems and Process: International Law and How We Use It* Oxford: Oxford University Press

Ansong A. (2018)

Unilateral enforcement of un security council resolutions: the case of operation iraqi freedom

5. Higgins, R., (1995), "Peace and Security Achievements and Failures", *European Journal of International Law*, Vol.6, pp.1-46
6. Hongsheng, S., (2006), "The Evolution of Law and War", *Chinese Journal of International Politics*, vol. 1, 267-301
7. Jennings, R. QC and Watts, A. QC (eds), (1991), *Oppenheim's International Law: Ninth Edition* London: Longman, 41-42
8. Kress, C., (2004), "The Iraqi Special Tribunal and the Crime of Aggression", *Journal of International Criminal Justice* 2, 374-352
9. Mullerson, R., and Scheffer, D. J., (1995), "Legal Regulation of the Use of Force" in Damrosch, L. R., Danilenko, G. M., and Mullerson, R., *Beyond Confrontation*, Colorado: Westview Press
10. Ochoa-Ruiz, N. and Salamanca-Aguado, E., (2005), "Exploring the Limits of International Law relating to the Use of Force in Self-defence", *European Journal of International Law*, Vol. 16 No. 3, pp.499-524
11. Pellet, A., (2000), "Brief Remarks on the Unilateral Use of Force", *European Journal of International Law*, Vol.11 No.2, pp.385-392
12. President Bush's "State of the Union" Address, January 28 2003, [http://edition.cnn.com/2003/ ALLPOLITICS/01/28/sotu.transcript.8/index.htm](http://edition.cnn.com/2003/ALLPOLITICS/01/28/sotu.transcript.8/index.htm) (accessed on 07/11/2018)
13. Shaw, M. N., (2003), *International Law*, Cambridge: Cambridge University Press, 5th edition
14. Taft IV, W. H. and Buchwald, T. F., (2003), "Preemption, Iraq, and International Law", *The American Journal of International Law*, Vol. 97, No. 3, pp. 557-563
15. The United Nations Blue Book Series, (1996), Vol. IX, *The United Nations and the Iraq-Kuwait Conflict 1990-1996*
16. Yoo, J., (2003), "International Law and the War in Iraq", *The American Journal of International Law*, Vol. 97, No. 3, pp. 563-576.