

Necessity and Proportionality as Conditions of Self-Defence in International and Islamic Law

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Abstrak

Hak untuk melakukan pembelaan diri merupakan salah satu pengecualian terhadap larangan penggunaan kekuatan dalam hukum internasional. Baik hukum internasional maupun hukum Islam mengakui hak ini, tetapi pelaksanaannya harus memenuhi prinsip *necessity* (keharusan) dan *proportionality* (proporsionalitas). Artikel ini mengkaji kedua prinsip tersebut melalui analisis hukum komparatif. Penelitian ini menjelaskan bagaimana prinsip *necessity* dan *proportionality* dipahami dan diterapkan dalam kedua sistem hukum dengan mengkaji Piagam Perserikatan Bangsa-Bangsa, hukum kebiasaan internasional, putusan pengadilan, serta sumber-sumber utama hukum Islam. Artikel ini juga membahas *Caroline Case* dan intervensi di Afghanistan untuk menggambarkan penerapan kedua prinsip tersebut dalam praktik. Hasil penelitian menunjukkan bahwa meskipun kedua sistem hukum bertujuan membatasi penggunaan kekuatan dan mencegah penyalahgunaan hak pembelaan diri, keduanya berbeda dalam dasar hukum dan metode penafsirannya. Pemahaman yang lebih baik terhadap kedua prinsip ini dapat mendukung penerapan hak pembelaan diri yang lebih seimbang dan sesuai dengan hukum dalam hubungan internasional.

Kata Kunci: *Pembelaan diri; Necessity; Proportionality; Hukum Internasional; Hukum Islam.*

Abstract

The right of self-defence is one of the exceptions to the prohibition on the use of force under international law. Both international law and Islamic law recognize this right but require that it meet the principles of necessity and proportionality. This article examines these two principles through a comparative legal analysis. It explains how necessity and proportionality are understood and applied in both legal systems by examining the United Nations Charter, customary international law, judicial decisions, and the main sources of Islamic law. The article also discusses the *Caroline case* and the intervention in Afghanistan to illustrate the practical application of these principles. The study finds that although both legal systems aim to limit the use of force and prevent abuse of the right of self-defence, they differ in their legal foundations and methods of interpretation. A better understanding of these principles can contribute to a more balanced and lawful application of self-defence in international relations.

Keywords: *Self-defence, Necessity, Proportionality, International Law, Islamic Law.*

Introduction

The concept of self-defence has a central position in both international law and Islamic legal tradition. In contemporary legal discourse, self-defence represents one of the most arguable exceptions to the general prohibition on the use of force. While international law primarily regulates self-defence through treaty law and customary norms, Islamic law approaches the issue from a combination of legal, ethical, and moral perspectives rooted in religious texts and jurisprudential reasoning.¹

In addition, historically, self-defence emerged from customary law practices among states, evolving over centuries to accommodate changes in warfare, technology, and international relations. Its application has expanded in the twenty-

¹ Malcolm N. Shaw, *International Law*, 8th ed. (Cambridge: Cambridge University Press, 2017).

first century to address challenges posed by non-state actors and unbalanced threats, highlighting the tension between legal norms and practical security concerns.²

In modern international relations, claims of self-defence are frequently invoked to justify military actions, often raising serious concerns regarding abuse, selective interpretation, and erosion of legal constraints.³ The principles of necessity and proportionality have emerged as fundamental conditions designed to limit the scope of lawful self-defence and prevent arbitrary or excessive use of force. These principles serve not only as legal requirements but also as normative tools aimed at preserving international peace and security.⁴

Similarly, Islamic law recognises self-defence as a legitimate response to aggression but imposes strict limitations to ensure that the use of force remains morally justified and legally permissible. Unlike international law, which largely relies on state-centric reasoning,⁵ In contrast, Islamic law places significant emphasis on ethical restraint, human dignity, and prevention of harm. The concepts of necessity (الحاجة) and proportionality (بقدر الحاجة وعدم الاعتداء) function as core principles governing the permissibility of defensive force.⁶

In addition to legal limitations, Islamic law emphasises the protection of human dignity and societal order, ensuring that defensive measures are not used as pretexts for revenge or expansionist goals. The moral framework guides both individual and collective behaviour, reinforcing ethical conduct alongside legal compliance.⁷

In contemporary international relations, the concept of self-defence has acquired renewed significance, particularly in the context of “war on terror,” counter-terrorism operations, and the increasing reliance on unilateral uses of force by states.⁸ Since the early twenty-first century, states have frequently invoked self-defence to justify military actions against non-state actors operating across borders. This development

²Christine Gray, *International Law and the Use of Force*, 4th ed. (Oxford: Oxford University Press, 2018).

³ Olivier Corten, *The Law Against War: The Prohibition on the Use of Force in Contemporary International Law* (Oxford: Hart Publishing, 2021).

⁴ Ibid., 204-234.

⁵ Mohammad Hashim Kamali, *Qawa'id al-Fiqh: The Legal Maxims of Islamic Law* (Cambridge: Islamic Texts Society, 2006).

⁶ Ibid., 95-99.

⁷ Khaled Abou El Fadl, “Islam and the Challenge of Democracy,” in *Islam and the Challenge of Democracy*, ed. Joshua Cohen and Deborah Chasman (Princeton, NJ: Princeton University Press, 2004).

⁸ Christine Gray, *International Law and the Use of Force*, 4th ed. (Oxford: Oxford University Press, 2018).

has significantly expanded the practical scope of self-defence beyond its traditional understanding as a response to direct inter-state armed attacks.⁹

Moreover, the principles intended to limit self-defence, especially necessity and proportionality, have come under considerable strain. Powerful states often interpret these conditions flexibly, framing extended military campaigns and extensive uses of force as necessary and proportionate responses to security threats.¹⁰ Such practices raise serious concerns regarding the potential misuse of self-defence as a legal justification, the erosion of established constraints on the use of force, and the weakening of the collective security system. Consequently, reassessing necessity and proportionality has become essential to preserving the restrictive function of self-defence in international law.¹¹

This paper examines necessity and proportionality as conditions of self-defence in both international law and Islamic law. By adopting a comparative approach, the study aims to demonstrate that while both legal systems share similar foundational objectives in limiting violence, they differ in their conceptual frameworks, sources of legitimacy, and modes of application. The analysis contributes to contemporary debates by highlighting how Islamic legal principles can complement and enrich modern international legal discourse on the use of force.

Problem Formulation

1. How are the principles of necessity and proportionality interpreted and applied as conditions of lawful self-defence under international law?
2. How do these principles operate in Islamic law, and what similarities and differences exist between the two legal systems?

Methodology

This study adopts a doctrinal and comparative legal approach. It examines the principles of necessity and proportionality as conditions of lawful self-defence in international law and Islamic law. The analysis is based on legal texts, including the United Nations Charter, customary international law, judicial decisions, and the primary sources of Islamic law, such as the Qur'an, Sunnah, and principles of Islamic jurisprudence.

The doctrinal method is used to analyse how these legal sources define and regulate the principles of necessity and proportionality. The comparative approach identifies the main

⁹ Inter-American Court of Human Rights, *Case No. 17680*, Judgment (San José, Costa Rica, 2013), accessed January 12, 2026, <https://www.corteidh.or.cr/tablas/17680.pdf>.

¹⁰ Olivier Corten, *The Law Against War: The Prohibition on the Use of Force in Contemporary International Law* (Oxford: Hart Publishing, 2021).

¹¹ *Ibid.*, 204-234.

similarities and differences between the two legal systems without treating either system as superior. Instead, it focuses on how both legal traditions limit the use of force through different legal and ethical frameworks.

This study relies on the interpretation of legal materials rather than empirical data. Therefore, its findings are based on the analysis of legal rules, judicial practice, and scholarly literature. Although this approach does not include empirical research, it provides a suitable framework for comparing the legal and ethical foundations of self-defence in both systems.

Discussion and Result

1. Necessity in International Law

In international law, necessity functions as a threshold requirement for the lawful exercise of self-defence. It requires that the use of force be unavoidable and that no reasonable peaceful alternatives remain available. Self-defence is justified only when an armed attack has occurred or is imminent, and when diplomatic, political, or judicial means are insufficient to repel the threat.¹²

The principle of necessity reflects the exceptional nature of self-defence. It reinforces the idea that force is a last resort rather than a preferred policy tool. In contemporary practice, however, the interpretation of necessity has become increasingly flexible. States often expand the concept to include anticipatory or preventive self-defence, thereby weakening its constraining effect.¹³

This expansive interpretation raises significant concerns. When necessity is loosely defined, it risks becoming a rhetorical justification rather than a genuine legal condition. The erosion of necessity undermines the collective security system and blurs the line between lawful defence and unlawful aggression. As a result, the principle increasingly depends on political power rather than objective legal assessment.¹⁴

In modern practice, the concept of necessity faces significant challenges due to political considerations, unequal conflict, and the increasing use of preventive strategies. States must not only demonstrate that an armed attack occurred or was imminent but also prove that no alternative measures could have effectively

¹²Roberto Ago, "Necessity in International Law," *American Journal of International Law* 68, no. 1 (1974): 1–27, accessed January 12, 2026, <https://www.jstor.org/stable/742739>.

¹³William Gerald Downey, "The Law of War and Military Necessity," *The American Journal of International Law* 47, no. 2 (1953): 251–62, <https://doi.org/10.2307/2194822>.

¹⁴Mary Ellen O'Connell, "The Limited Necessity of Resort to Force," in *Imagining Law: Essays in Conversation with Judith Gardam*, ed. Dale Stephens and Paul Babie (Adelaide: University of Adelaide Press, 2016), page number, <https://www.jstor.org/stable/10.20851/j.ctt1sq5x0z.7>.

eliminated the threat, making the legal threshold for necessity a complex and often contested standard.¹⁵

Historically, the principle of necessity in self-defence has roots in early customary international law, most notably in the Caroline case of 1837. In this case, the United States and Britain debated the right to use force in anticipation of preventing an immediate attack. The case established that self-defence must be instant, overwhelming, and leave no choice of means, and no moment for consultation. This “Caroline formula” has influenced modern international law by setting a high threshold for the lawful use of force.¹⁶

In contemporary international law, necessity is formally recognised in Article 51 of the UN Charter, which allows states to use force in self-defence if an armed attack occurs. The Charter balances the state’s right to defend itself with the overarching goal of maintaining international peace and security.¹⁷ Necessity requires that force be employed only when there are no reasonable alternatives and that it is proportionate to the threat. This legal requirement limits arbitrary or preventive attacks that could undermine collective security.¹⁸

The International Court of Justice (ICJ) has consistently emphasised a cautious approach to necessity. While recognising a state’s right to self-defence, the ICJ underlines that self-defence cannot be invoked lightly, especially against non-state actors or anticipatory threats.¹⁹ The Court highlights the need for clear evidence of an armed attack or imminent danger before force is justified. This careful stance helps prevent the misuse of necessity as a rhetorical excuse for aggression, ensuring that self-defence remains an exceptional and legally constrained measure.²⁰

Case Study: Afghanistan and the Expansion of Necessity: The 2001 intervention in Afghanistan is one of the most important examples of how the concept of necessity in

¹⁵ Michael N. Schmitt, “Clarifying Necessity, Imminence, and Proportionality in the Law of Self-Defense,” *American Journal of International Law* 107, no. 3 (2013): 563–570, accessed January 12, 2026, <https://www.jstor.org/stable/10.5305/amerjintlaw.107.3.0563>.

¹⁶ Malcolm N. Shaw, *International Law*, 8th ed. (Cambridge: Cambridge University Press, 2017), accessed January 12, 2026.

¹⁷ Asif Ezdi, “Self Defence Under Article 51 of the United Nations Charter: A Critical Analysis,” *Pakistan Horizon* 27, no. 2 (1974): 29–51, <https://www.jstor.org/stable/41393212>.

¹⁸ Daniel-Ştefan Paraschiv, “State Responsibility in International Law,” *Geopolitics, History, and International Relations* 5, no. 1 (2013): 154–55, <https://www.jstor.org/stable/26805935>.

¹⁹ Oscar Schachter, “Self-Defense,” *Proceedings of the Annual Meeting (American Society of International Law)* 81 (1987): 350–54, <https://www.jstor.org/stable/25658380>.

²⁰ Oscar Schachter, “Self-Defense and the Rule of Law,” *The American Journal of International Law* 83, no. 2 (1989): 260–63, <https://doi.org/10.2307/2202738>.

self-defence has been interpreted in contemporary international law. Following the terrorist attacks of 11 September 2001, the United States invoked Article 51 of the UN Charter and claimed that it was acting in lawful self-defence. The attacks were described as an armed attack against the United States, and it was argued that further attacks were likely unless immediate action was taken.²¹

According to the US position, military force was necessary because the Taliban regime in Afghanistan was harbouring al-Qaeda and refusing to cooperate in surrendering those responsible for the attacks. Diplomatic efforts and requests for cooperation were presented as ineffective, leaving no reasonable peaceful alternatives.²² On this basis, the use of force was framed as unavoidable. Many states accepted this reasoning, and the intervention initially received broad international support, including recognition by the UN Security Council of the right of self-defence in response to the attacks.²³

At the early stage, the Afghanistan intervention appeared to fit within the traditional understanding of necessity. The attacks were recent, the threat was perceived as ongoing, and the response was presented as limited to preventing further harm.²⁴ However, as the conflict developed, serious legal questions began to emerge. What started as a defensive operation against al-Qaeda gradually expanded into a prolonged military campaign involving regime change, counterinsurgency operations, and long-term foreign presence.²⁵

This evolution raised doubts about whether the condition of necessity continued to exist over time. Necessity in self-defence is meant to justify force only as long as it is required to repel an immediate threat.²⁶ In the Afghanistan case, the continuation of military operations for nearly two decades made it difficult to argue that force remained unavoidable throughout the conflict. The link between the original armed attack and the ongoing use of force became increasingly indirect.²⁷

²¹ Thomas M. Franck, "Terrorism and the Right of Self-Defense," *American Journal of International Law* 95, no. 4 (2001): 839–843, accessed January 12, 2026, <https://www.jstor.org/stable/3663235>.

²² Muqarrab Akbar and Mahdi Zahraa, "War against Terrorism: Legality of the US Invasion of Afghanistan," *Pakistan Horizon* 68, no. 3/4 (2015) <https://www.jstor.org/stable/44988239>.

²³ *Ibid.*, 99–100.

²⁴ *Ibid.*, 101–102.

²⁵ *Ibid.*, 83–84.

²⁶ Devika Hovell et al., "Self-Defence and Its Dangerous Variants: Afghanistan and International Law," *LSE Public Policy Review* 2, no. 3 (2022): 5–6, <https://doi.org/10.31389/lseppr.53>.

²⁷ *Ibid.*, 6.

Critics argue that the Afghanistan intervention weakened the restrictive function of necessity in international law. Instead of requiring an immediate and overwhelming threat, necessity was interpreted broadly to include general security risks and long-term preventive goals.²⁸ This shift risks transforming necessity from a strict legal condition into a flexible political justification. The Afghanistan case illustrates how expansive interpretations of necessity can blur the boundary between lawful self-defence and unlawful use of force, potentially undermining the collective security system established by the UN Charter.²⁹

Necessity in Islamic Law: In Islamic law, necessity (الحاجة) is deeply included within a moral and legal framework aimed at preserving life, dignity, and social order. Self-defence is recognised as a legitimate response to aggression, but only when it is genuinely required to repel harm. The use of force must be strictly limited to what is necessary to remove the threat.³⁰

Despite international law's state-centred approach, Islamic law emphasises individual and collective responsibility before God. Necessity is not only a legal threshold but also a moral evaluation. The defender must assess intention, context, and consequences. Defensive force is justified only when aggression is real and ongoing, not speculative or hypothetical.

In addition, Islamic law rejects the normalisation of violence. Even in cases of necessity, restraint is emphasised. The objective is not victory or punishment but protection and restoration of peace. This ethical dimension strengthens the principle of necessity and limits its abuse.³¹

The moral dimension of necessity in Islamic law ensures that defensive actions are proportionate and limited to immediate threats. Historical instances, such as the Battle of Badr, illustrate the careful balance between repelling aggression and avoiding excessive harm, reinforcing the Qur'anic injunctions against transgression.³²

²⁸ Louis Fisher, "The Return of the Imperial Presidency? The President, Congress, and U.S. Foreign Policy after 11 September 2001," *Political Science Quarterly* 117, no. 1 (2002): accessed January 12, 2026, <https://www.jstor.org/stable/41158497>.

²⁹ Ibid., 255-260

³⁰ Farhad Malekian, "Principles of Islamic International Law," in *Principles of Islamic International Criminal Law: A Comparative Search* (Leiden: Brill, 2011), page number, <https://www.jstor.org/stable/10.1163/j.ctt1w8h3dt.7>.

³¹ Ali Raza Naqvi, "Laws of War in Islam," *Islamic Studies* 13, no. 1 (1974): 25-43, <https://www.jstor.org/stable/20846902>.

³² Youssef H. Aboul-Enein and Sherifa Zuhur, *Islamic Rulings on Warfare* (Fort Leavenworth, KS: Defense Technical Information Center, 2004), <https://doi.org/10.21236/ADA428335>.

Furthermore, the principle of necessity in Islamic law is firmly rooted in the Qur'an, which recognises the legitimacy of self-defence in specific circumstances. For instance, Qur'an 2:190 commands believers: "Fight in the way of God those who fight you, but do not transgress limits; God does not love transgressors."³³ Similarly, Qur'an 22:39 permits fighting for those who are wronged, granting them the right to defend their lives and property. These verses provide the foundational guidance for when defensive force is morally and legally justified.³⁴

On the other hand, necessity is closely linked to the *maqāṣid al-sharī'a*, the higher objectives of Islamic law, particularly the protection of life, dignity, and social order. Defensive actions are permitted only to the extent required to repel harm and must respect ethical and spiritual considerations. However, some interpretations in international law, Islamic law explicitly rejects preventive or anticipatory violence. Defensive force cannot be justified based on speculative threats or preemptive assumptions about potential aggression.³⁵

This Qur'anic and ethical grounding reinforces the idea that necessity is both a legal and moral threshold. The use of force must be proportionate, targeted, and limited to what is strictly required to remove the immediate threat.³⁶ By integrating these spiritual and moral dimensions, Islamic law provides a multidimensional check on the exercise of self-defence, ensuring that necessity is not interpreted as a broad permission for retaliation or expansionist aggression.³⁷

2. Proportionality in International Law

Proportionality in international law requires that the scale, scope, and intensity of defensive force correspond to the gravity of the armed attack. It does not demand symmetry but prohibits excessive or indiscriminate responses. The goal is to neutralise the threat without causing unnecessary harm.³⁸

³³ N. A. Shah, "The Use of Force under Islamic Law," *European Journal of International Law* 24, no. 1 (2013): 343–365, <https://doi.org/10.1093/ejil/cht013>.

³⁴ Ibid., 147.

³⁵ Nehaluddin Ahmad and Mohd Wafiq bin Mohd Jafree, "The Term Jihad in Islamic Jurisprudence with Reference to Modern International Law: A Critical Examination," *Journal of Malaysian and Comparative Law* 50, no. 1 (2023): 1–72, <https://heinonline.org/HOL/P?h=hein.journals/jmcl50&i=64>.

³⁶ Youssef H. Aboul-Enein and Sherifa Zuhur, *Islamic Rulings on Warfare* (Carlisle, PA: Strategic Studies Institute, U.S. Army War College, 2004), <https://www.jstor.org/stable/resrep11465>.

³⁷ Ibid., 6–9.

³⁸ Judith Gail Gardam, "Proportionality and Force in International Law," *The American Journal of International Law* 87, no. 3 (1993): 391–413, <https://doi.org/10.2307/2203645>.

In theory, proportionality functions as a powerful constraint. In practice, however, its application is highly contested. States often justify extensive military operations as proportionate responses, even when civilian harm and infrastructure destruction are significant. The lack of clear quantitative criteria makes proportionality vulnerable to subjective interpretation.³⁹

Moreover, proportionality assessments are frequently conducted retrospectively, limiting their preventive effect. Once force has been used, political narratives tend to dominate legal evaluation. This weakens the normative force of proportionality and raises questions about its effectiveness as a regulatory tool.⁴⁰

Proportionality assessments remain challenging because there is no universal formula to measure the scale of force relative to the attack. Factors such as civilian casualties, destruction of infrastructure, and long-term strategic effects must be considered, which often lead to divergent interpretations among states and legal scholars.⁴¹

Proportionality in international law is a core principle that limits the scope of lawful self-defence. It requires that any defensive action match the seriousness of the armed attack, but it does not demand perfect symmetry.⁴² Scholars often distinguish between qualitative and quantitative proportionality: quantitative proportionality looks at the scale and intensity of military action relative to the attack, while qualitative proportionality considers the nature of the means used and the expected impact on civilians and infrastructure.⁴³

One major challenge in applying proportionality is the debate over civilian harm. Even if a military operation is aimed at legitimate targets, the potential impact on civilians can raise serious questions about whether the response is proportionate. International law prohibits excessive or indiscriminate use of force, but you usually don't set clear boundaries, leaving room for interpretation. States may justify

³⁹ Franck, "On Proportionality of Countermeasures in International Law.

⁴⁰ Thomas M. Franck, "On Proportionality of Countermeasures in International Law," *The American Journal of International Law* 102, no. 4 (2008): 715–67, <https://doi.org/10.2307/20456680>.

⁴¹ Tom Ruys, "Back to Basics: Necessity, Proportionality, and the Right of Self-Defence against Non-State Terrorist Actors," *International and Comparative Law Quarterly* 56, no. 3 (2007): 1–30, accessed January 13, 2026, <https://www.jstor.org/stable/4498056>.

⁴² James G. Murphy, "Proportionality," in *War's Ends, Human Rights, International Order, and the Ethics of Peace* (Georgetown University Press, 2014), <https://www.jstor.org/stable/j.ctt5vj8kj.11>.

⁴³ D. Kretzmer, "The Inherent Right to Self-Defence and Proportionality in Jus Ad Bellum," *European Journal of International Law* 24, no. 1 (2013): 235–82, <https://doi.org/10.1093/ejil/chs087>.

extensive operations as necessary to neutralise a threat, while critics argue that civilian casualties or destruction of property render the response disproportionate.⁴⁴

Another difficulty is the assessment of proportionality in practice. Often, proportionality is evaluated retrospectively, after the military action has taken place, which limits its preventive role. Political considerations and narratives may dominate the evaluation, weakening the normative force of the principle.⁴⁵ Despite these challenges, proportionality remains a crucial legal requirement, ensuring that self-defence is not used as a blanket justification for excessive or arbitrary violence. Its primary function is to preserve a balance between protecting security and limiting harm, maintaining the legitimacy of self-defence under international law.⁴⁶

Case Study: Anticipatory Self-Defence and the Caroline Formula: The Caroline incident of 1837 remains one of the most influential historical references for understanding the principles of necessity and proportionality in the context of self-defence under international law.⁴⁷ The incident occurred during political unrest in Canada, when British authorities claimed that the American vessel *Caroline* was being used to supply and support Canadian rebels operating against British rule. Acting on this belief, British forces crossed into United States territory, seized the vessel, set it on fire, and sent it over Niagara Falls.⁴⁸

The United States strongly protested this action, arguing that Britain had violated its sovereignty and used force unlawfully. In the diplomatic exchange that followed, U.S. Secretary of State Daniel Webster articulated a strict legal standard for anticipatory self-defence.⁴⁹ According to this formulation, the use of force in self-defence is justified only when the necessity is instant or overwhelming, leaving no choice of means, and no moment for deliberation. This statement later became known

⁴⁴ Kimberley N. Trapp, "Back to Basics: Necessity, Proportionality, and the Right of Self-Defence against Non-State Terrorist Actors," *The International and Comparative Law Quarterly* 56, no. 1 (2007): 141–56, <https://www.jstor.org/stable/4498056>.

⁴⁵ Chatham House, "Proportionality in the Conduct of Hostilities: The Incidental Harm Side of the Assessment," December 15, 2018, <https://www.chathamhouse.org/2018/12/proportionality-conduct-hostilities-incident-harm-side-assessment>.

⁴⁶ Daniel-Ştefan Paraschiv, "State Responsibility in International Law," *Geopolitics, History, and International Relations* 5, no. 1 (2013): 154–155, <https://www.jstor.org/stable/26805935>.

⁴⁷ R. Y. Jennings, "The *Caroline* and *McLeod* Cases," *The American Journal of International Law* 32, no. 1 (1938): 82–99, <https://doi.org/10.2307/2190632>.

⁴⁸ *Ibid.*, 82–91.

⁴⁹ The Open University, "The Use of Force in International Law," *OpenLearn*, accessed January 13, 2026, <https://www.open.edu/openlearn/society-politics-law/the-use-force-international-law/content-section-1.4>.

as the Caroline formula and has since been regarded as a cornerstone of customary international law on self-defence.⁵⁰

Additionally, the Caroline formula places necessity at the centre of lawful defensive action. It makes clear that self-defence cannot be based on speculative, remote, or hypothetical threats. Instead, the danger must be imminent and unavoidable.⁵¹ This restrictive understanding was designed to prevent states from abusing self-defence as a pretext for political or strategic objectives. By setting such a high threshold, the formula reinforces the exceptional nature of self-defence within the broader prohibition on the use of force.⁵²

At the same time, the Caroline incident is closely linked to the principle of proportionality. Even where necessity exists, the defensive response must be strictly limited to what is required to neutralise the immediate threat. The use of force must not go beyond its defensive purpose or turn into punishment, retaliation, or deterrence. In this sense, necessity and proportionality operate together as complementary constraints.⁵³

In contemporary international law, the Caroline formula remains a benchmark for assessing claims of anticipatory self-defence. Although it is frequently cited by states and scholars, its strict requirements are rarely applied in full.⁵⁴ Modern cases, such as the intervention in Afghanistan, illustrate how contemporary practice often departs from the classical standard. This comparison highlights the growing tension between traditional legal constraints and evolving security practices, while underscoring the continuing importance of necessity and proportionality as limiting principles in international law.⁵⁵

Proportionality in Islamic Law: Islamic law approaches proportionality through principles such as عدم الاعتداء (no transgression) and بقدر الحاجة (to the extent of

⁵⁰Reference.org Encyclopedia, "Self-Defence in International Law," accessed January 13, 2026, <https://reference.org/facts/self-defence-in-international-law/M39bF6zC>.

⁵¹ Amos N. Guiora, "Anticipatory Self-Defence and International Law—A Re-Evaluation," *Journal of Conflict & Security Law* 13, no. 1 (2008): 3–24, <https://www.jstor.org/stable/26295303>.

⁵² Ibid., 5.

⁵³ Chatham House, "The Chatham House Principles of International Law on the Use of Force in Self-Defence," *International and Comparative Law Quarterly* 55, no. 4 (2006): 963–972, <https://www.jstor.org/stable/4092626>.

⁵⁴ Louis Rouillard, "Anticipatory Self-Defence in International Law," *Miskolc Journal of International Law* 1, no. 2 (2004); <https://epa.oszk.hu/00200/00294/00002/20042rouillard1.htm>.

⁵⁵ Abdulaziz Abdurazakov, "Anticipatory Self-Defense in International Law: Legal Ambiguities, State Practice, and the Need for Reform," *International Conference on Legal Sciences* 4, no. 1 (2025), <https://science-zone.org/conference/article/view/168>.

necessity). These principles require that defensive action remain strictly limited and morally justified. Excessive harm, retaliation, and collective punishment are prohibited.⁵⁶

A distinctive feature of Islamic proportionality is its focus on the protection of non-combatants. Women, children, the elderly, and civilians are explicitly shielded from harm. Destruction of property, environment, and infrastructure is also restricted unless directly required for defence.⁵⁷ Proportionality in Islamic law is inseparable from accountability. The use of force is subject not only to legal judgment but also to ethical and spiritual consequences. This multidimensional accountability reinforces restraint and discourages escalation.⁵⁸

Islamic law places particular emphasis on safeguarding non-combatants and minimising harm to property and the environment, reflecting the broader objective of preserving social order and justice. Accountability before God ensures that defenders consider not only the immediate tactical need but also the long-term ethical consequences of their actions.⁵⁹

In Islamic law, the principle of proportionality is closely tied to ethical and moral responsibility. One key aspect is the protection of non-combatants. Women, children, the elderly, and civilians must not be harmed during defensive actions. The use of force is strictly limited to what is necessary to repel aggression, and intentional harm to innocents is prohibited.⁶⁰

Protection of property and the environment is also an essential component. Destruction of crops, water sources, homes, or public infrastructure is not allowed unless it is directly required to stop an immediate threat. This principle ensures that self-defence does not become an excuse for indiscriminate or excessive damage, preserving social order and the rights of the community.⁶¹

⁵⁶ Ahmad Atif Ahmad, *Islamic Rulings on Warfare* (Washington, DC: Carnegie Endowment for International Peace, 2009), accessed January 13, 2026, <https://www.jstor.org/stable/resrep11465>.

⁵⁷ Rohmad Adi Yulianto and Abdul Mufid, "The Principle of Proportionality in Armed Conflict under International Law and Islam," *Abkam: Jurnal Ilmu Syariah* 25, no. 1 (2025): 105–124, <https://doi.org/10.15408/ajis.v25i1.42273>.

⁵⁸ Ibid., 115–116.

⁵⁹ Muhammad Tahir-ul-Qadri and Muhammad Ahmed Qadri, *The Ethics of War and Peace in Islamic Law* (Lahore: Minhaj-ul-Quran Publications, 2024).

⁶⁰ Ali Akbar Al Azhari, "A Comparative Analysis of Islamic Laws of War and Contemporary International Humanitarian Law," *International Journal of Interdisciplinary Innovation and Research* 1, no. 1 (January–June 2024), published June 21, 2024.

⁶¹ Shebanee Devadasan, "Environmental Destruction and Armed Conflict: Protecting the Vulnerable through Islamic Law," *Journal of International Law and Islamic Law* 18, no. 1 (2022): 175–87, <https://heinonline.org/HOL/P?h=hein.journals/jispil18&i=177>.

Another important feature is accountability before Allah. Despite international law, which relies primarily on institutional evaluation and legal procedures, Islamic law incorporates a moral and spiritual dimension. Individuals and states are responsible not only legally but also ethically for their actions. This accountability discourages abuse of force and emphasises restraint, encouraging defenders to carefully consider whether their actions are necessary and proportionate.⁶²

In practice, proportionality in Islamic law combines legal restrictions with moral guidance. Defensive force must be limited in scope, applied only when required, and aimed at neutralising the threat without excess. Excessive retaliation or collective punishment is forbidden. This multi-layered approach reinforces the principle of restraint and contributes to the ethical depth of Islamic self-defence, highlighting how moral values and legal rules work together to guide behaviour in conflict situations.⁶³

3. Comparative Discussion

The comparative analysis reveals significant convergence between international law and Islamic law in recognising necessity and proportionality as fundamental conditions of lawful self-defence. Both systems seek to limit violence, prevent abuse, and maintain order. However, they differ in structure, emphasis, and normative foundation.⁶⁴

International law relies primarily on procedural legality and institutional mechanisms, whereas Islamic law integrates legal rules with ethical and moral considerations. While international law struggles with enforcement and politicisation, Islamic law derives legitimacy from moral obligation and communal values.⁶⁵

The Islamic framework offers valuable insights for contemporary debates. Its emphasis on intention, restraint, and human dignity provides a normative depth often lacking in modern legal discourse. At the same time, international law contributes

⁶² Mohammad Sabuj, "Islamic International Law: An Emerging Branch of Law Which Answers the Contentious Question of 'Authority to Use Force' in Islamic Law and Politics," *British Journal of Middle Eastern Studies* 48, no. 3 (2021): 388–404, <https://doi.org/10.1080/13530194.2019.1609414>.

⁶³ Ali Alzahrani, "Self-Defence and Non-Culpable Aggressors," unpublished manuscript, accessed January 13, 2026, https://d1wqtxts1xzle7.cloudfront.net/114249709/Alzahrani_Self_Defence_and_Non_Culpable_Aggressors-libre.pdf.

⁶⁴ Vandna Gogia, *The Legal Position of the Islamic State in International Law: Legality of the Use of Force against the Islamic State* (Bachelor's thesis, Faculty of Law, Lund University, 2015).

⁶⁵ Muhammad Mushtaq Ahmad, "The Scope of Self-Defence: A Comparative Study of Islamic and Modern International Law," *Islamic Studies* 49, no. 2 (2010): 155–94, <https://www.jstor.org/stable/41480703>.

institutional mechanisms and universal applicability that Islamic law alone may not provide.⁶⁶

The comparative analysis of self-defence under international law and Islamic law reveals both similarities and important differences. A table-style discussion can help visualise this in text. For example, both systems recognise necessity and proportionality as key conditions that limit the use of force. Both aim to prevent abuse, excessive violence, and maintain order. However, the way these principles operate differs significantly.⁶⁷

In international law, enforcement is mainly institutional. States are expected to comply with treaty obligations, customary norms, and the judgments of international courts. Violations can result in legal condemnation, sanctions, or diplomatic consequences. However, these mechanisms often rely on state cooperation, and powerful states may interpret necessity and proportionality flexibly, weakening their constraining effect.⁶⁸

In contrast, Islamic law emphasises ethical and moral enforcement. Compliance is guided not only by legal rules but also by moral responsibility and accountability before God. Individuals and communities must consider intention, restraint, and harm to others when exercising self-defence. This approach integrates law with moral reflection, ensuring that actions remain proportionate and necessary.⁶⁹

Moreover, this combination provides normative depth, meaning that the law does not merely indicate what is permitted or forbidden, but also gives ethical guidance and moral significance to decisions. While international law can determine whether a state acted legally, Islamic law also encourages reflection on whether the action was morally right. In this way, Islamic principles add a layer of moral meaning to the legal rules, enhancing restraint and ethical responsibility.⁷⁰

⁶⁶ Nehaluddin Ahmad et al., “Islamic Laws of War and Contemporary International Humanitarian Law: Discrimination and Proportionality Regional Focus & Controversies: US-China Strategic Competition and the New Law of War,” *Journal of East Asia and International Law* 16, no. 1 (2023): 105–24, <https://heinonline.org/HOL/P?h=hein.journals/jeasil16&i=105>.

⁶⁷ Khalid A. Owaydhah and Mohamed Yunnis, “The Concept of Self-Defence in Islamic Jurisprudence,” *International Journal of Arts & Sciences* 9, no. 4 (2017): 209–226.

⁶⁸ Thomas Cottier et al., “The Principle of Proportionality in International Law: Foundations and Variations,” *The Journal of World Investment & Trade*, August 8, 2017, 628–72, <https://doi.org/10.1163/22119000-12340054>.

⁶⁹ Khalid A. Owaydhah, *The Concept of Self-Defence in Islamic Jurisprudence* (Master’s thesis, Flinders University, n.d.), <https://flex.flinders.edu.au/file/5672f721-f390-48c3-bffa-3f64d5f383a5/1/Manuscript-KhalidOwaydhahThesis.pdf>.

⁷⁰ Talya Ucaryilmaz, “The Principle of Proportionality in Modern Ius Gentium,” *Utrecht Journal of International and European Law* 36, no. 1 (2021): 14–32, <https://heinonline.org/HOL/P?h=hein.journals/merko36&i=14>.

While international law can determine whether a state acted legally, Islamic law also encourages reflection on whether the action was morally right. Studying these differences enriches our understanding of self-defence by showing that law can function not only as a set of rules but also as a framework for guiding ethical behaviour.⁷¹ The comparative perspective thus highlights the potential for cross-fertilisation: incorporating moral and ethical reasoning into international law could strengthen existing norms and improve compliance with the principles of necessity and proportionality.⁷²

Overall, a textual comparison shows that both systems strive to balance security and restraint, but through different mechanisms. International law relies on procedural legality and institutional oversight, while Islamic law integrates ethical evaluation, moral responsibility, and accountability. Studying these differences enriches our understanding of self-defence by showing that law can function not only as a set of rules but also as a framework for guiding ethical behaviour. The comparative perspective thus highlights the potential for cross-fertilisation: incorporating moral and ethical reasoning into international law could strengthen existing norms and improve compliance with the principles of necessity and proportionality.

Conclusion

This study examined the principles of necessity and proportionality as conditions of lawful self-defence in both international law and Islamic law. The analysis shows that, while both systems aim to regulate the use of force and prevent abuse, they approach these principles differently. International law relies on procedural mechanisms, treaties, and customary norms, and its enforcement often depends on states' cooperation. In practice, political interests and the flexible interpretation of necessity and proportionality can weaken their effectiveness.

Islamic law, in contrast, combines legal rules with moral and ethical obligations, emphasising accountability before God, restraint, and the protection of human dignity. Defensive actions are permitted only to repel immediate harm and must avoid excessive damage, retaliation, or harm to civilians and property. This moral dimension strengthens the limiting function of necessity and proportionality, ensuring that self-defence remains ethically as well as legally justified.

⁷¹ Hassan Chamsi-Pasha, "Principles of Islamic Medical Ethics," *Journal of the British Islamic Medical Association* 1, no. 1 (April 2019): 15–28.

⁷² Mohammed R. M. Elshobake, "Systematic Review of Published Literature on International Humanitarian Law from Islamic Perspective," *International Journal of Social Science Research* 13, no. 1 (2025): 124, <https://doi.org/10.5296/ijssr.v13i1.22146>.

By comparing the two systems, the study finds that both recognise necessity and proportionality as essential conditions for lawful self-defence, but Islamic law adds a normative and ethical depth often absent in international law. The comparison also shows that integrating ethical considerations into international legal practice could help prevent the misuse of self-defence and strengthen compliance with these principles.

In answer to the research question, the study concludes that lawful self-defence requires both necessity and proportionality, but these concepts are most robust when legal rules are supported by ethical reflection. International law provides universal and institutional guidance, while Islamic law offers moral and spiritual checks that reinforce restraint. Together, these insights highlight that effective regulation of self-defence must balance legal standards with ethical responsibility to ensure that force is used only as a last resort and within strict limits.

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