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Türkiye's Practice Concerning Preemptive Self-Defense under Customary International Law

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1. Round 1

1.1. Reviewer 1

Reviewer:

The paragraph stating that "The relationship between customary self-defense and the Charter is one of the principal doctrinal disagreements in this field" identifies the correct controversy but does not sufficiently engage with the textual significance of the phrase "if an armed attack occurs" in Article 51. The authors should present more sharply the restrictive and expansive interpretations of this language and explain the legal consequences of each. The restrictive reading treats the occurrence of an armed attack as a precondition for unilateral self-defense, while the broader reading emphasizes the "inherent right" language as preserving a pre-existing customary entitlement. The manuscript should then indicate which interpretation it finds more persuasive and why, rather than maintaining doctrinal neutrality throughout most of the analysis.

The statement that "The post-September 11 environment also generated attempts to redefine imminence" requires greater analytical precision. The manuscript currently refers to the United States' strategic approach but does not specify which elements of the post-2001 doctrine are legally relevant to the Turkish case. The authors should distinguish between strategic policy documents advocating early action against emerging threats and formal legal claims asserting a right of anticipatory self-defense. This distinction is essential to the analysis of opinio juris. A national security strategy cannot automatically be treated as evidence that a state believes international law authorizes all forms of preemptive force described in its policy documents.

The paragraph beginning "Imminence functions as a critical limiting principle precisely because anticipatory self-defense occurs before the alleged attack has materialized fully" is one of the manuscript's most important analytical passages, but it should be operationalized more clearly. The authors identify temporal proximity, capability, intention, and the absence of alternatives, yet they do not explain how these factors will be applied to Türkiye's operations. The manuscript would benefit

from a uniform legal test used throughout the case analysis, for example requiring evidence regarding the specificity of the anticipated attack, temporal proximity, demonstrated hostile intent, operational capability, and whether delaying action would materially impair effective defense. This would make the subsequent assessment less impressionistic and more juridically reproducible.

The discussion of Operation Olive Branch states that "The first issue is the existence and gravity of the attacks invoked by Türkiye," but the manuscript does not provide enough operation-specific factual detail to permit the reader to evaluate the armed-attack threshold. The revision should identify the particular attacks or cross-border incidents invoked by Türkiye, their timing relative to the January 2018 operation, their scale and effects, and the organizations allegedly responsible. The authors should then assess whether those incidents individually or cumulatively meet the armed-attack threshold. Without this factual reconstruction, the legal analysis remains largely abstract and does not fully demonstrate why the Turkish justification should be accepted or rejected.

In relation to Operation Peace Spring, the sentence "The concept of imminence, however, cannot be established through terminology alone" is persuasive but should be followed by a closer evidentiary analysis of Türkiye's claim. The authors should identify exactly what evidence Türkiye publicly offered for the alleged imminent threat in October 2019 and whether that evidence demonstrated an identifiable forthcoming armed attack rather than a general long-term security concern. The distinction is central to the manuscript's thesis. If the available material does not reveal concrete evidence of temporal proximity, the authors should state explicitly that the public legal justification does not establish imminence, while also acknowledging the methodological limitation that classified intelligence may not be publicly accessible.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

In the discussion of necessity, the sentence "A threat may be serious without making military force immediately necessary" is analytically important and should be developed further. The manuscript should distinguish necessity from imminence instead of allowing the two concepts to overlap. Imminence concerns the temporal and evidentiary characteristics of the anticipated attack, while necessity concerns whether force is actually required to address that threat in light of available alternatives. In the Türkiye case studies, the authors should separately ask whether an attack was imminent and whether cross-border force was necessary. This separation would strengthen the argument, particularly where diplomatic coordination, border-defense measures, cooperation with the territorial state, or more limited operations may have been available.

The discussion of proportionality contains the sentence "A military operation intended to repel or prevent an armed attack may therefore become legally problematic if it expands geographically, temporally, or strategically beyond what is required to remove the threat." This proposition should be applied much more concretely to the Turkish operations examined. The authors should assess proportionality through identifiable variables such as the geographical depth of the operation, duration of troop deployment, scale of force, nature of the targets, establishment of territorial control, and continuation of operations after the immediate threat had arguably been neutralized. At present, proportionality is correctly described as a legal principle but is not consistently translated into an operation-specific assessment.

In the northern Iraq section, the sentence "One possible Turkish argument is that repeated PKK attacks constitute a continuing or cumulative armed campaign" raises a highly significant issue that requires a more detailed legal treatment. The authors should expressly address the so-called accumulation-of-events or "pinprick" theory and determine whether multiple lower-intensity attacks may cumulatively satisfy the armed-attack threshold. This is particularly relevant to the PKK context, where the legal justification may rest less on a single large-scale attack than on a series of cross-border incidents. The manuscript should explain the legal limits of aggregation, including temporal proximity, common authorship, continuity of operations, and the risk that very old incidents could be used indefinitely to justify new force.

The northern Iraq analysis states that "The requirement of necessity becomes crucial in this context," but the discussion should more clearly identify the evidence required to establish necessity in relation to Iraq's territorial authorities. The authors

should distinguish three situations: valid Iraqi consent to Turkish action, effective Iraqi action against the PKK, and Iraqi inability to address the threat. These scenarios produce different legal consequences. The manuscript currently moves between consent and inability without sufficiently clarifying their independent legal roles. Consent, if valid and operation-specific, can remove the issue from the ordinary unilateral self-defense framework, whereas inability is relevant only if a legally accepted doctrine permits action without consent.

The paragraph discussing the "unable or unwilling" doctrine should be substantially strengthened. The statement that "the status and content of that doctrine remain contested" is correct but too general for an article in which the doctrine is central to Turkish operations in both Iraq and Syria. The authors should assess whether there is sufficient general state practice and opinio juris to support the doctrine as a rule of customary international law, identify the principal objections to it, and explain whether Türkiye itself has expressly relied upon the doctrine or merely used reasoning analogous to it. It is also necessary to distinguish a descriptive observation that a territorial state lacks capacity from the normative proposition that such incapacity legally authorizes another state to use force on its territory.

The northern Iraq section states that "The question of consent provides an alternative possible legal basis in some situations." This issue requires a much more precise analysis of consent as an independent ground affecting the legality of foreign military presence. The authors should examine whether the relevant Iraqi authorities actually consented to particular Turkish operations, the scope and duration of any such consent, and whether historical security agreements can plausibly authorize contemporary military action. The current formulation correctly warns against treating past cooperation as permanent authorization, but the analysis would be significantly stronger if it distinguished consent to intelligence cooperation, consent to limited pursuit, consent to basing, and consent to full-scale military operations.

In the Syria section, the sentence "Türkiye's military operations in northern Syria present an even more complex test of preemptive self-defense because they developed within the extraordinary conditions created by the Syrian conflict" appropriately introduces the factual complexity, but the article should more rigorously separate legal context from geopolitical context. Several paragraphs describe fragmentation, regional rivalry, and Turkish strategic concerns. These factors are useful background but risk overwhelming the jus ad bellum analysis. The authors should reduce descriptive geopolitical material and devote more space to the exact legal claims Türkiye articulated for Operation Olive Branch and Operation Peace Spring, including the factual allegations of attack, the claimed imminence of future attacks, and the relationship between the identified threat and the geographical scope of each operation.

Authors revised the manuscript and uploaded the document.

2. Revised

Editor's decision: Accepted.
Editor in Chief's decision: Accepted.