

Countermeasures and Restraint: India's conduct in Op Sindoor is a rare victory for international law

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The April-May 2025 military confrontation between India and Pakistan, triggered by the Pahalgam terror attack, represents a significant development in international law, particularly regarding state responsibility for internationally wrongful acts. India's treatment of 'terrorism' as an act of war, its calibrated military cross-border response against Pakistan against terror targets, and its cessation of hostilities after it deemed its response over (with any escalation being made contingent on Pakistani action) – collectively advances the norm of self-defence against terrorism. But more specifically, it illustrates a rare instance of a state credibly upholding other international norms in its response to terrorism, without excesses against another state's (Pakistan's) sovereignty.

Sovereignty vs State Responsibility

The sovereignty of every state is inviolable. However, the concept of sovereignty has evolved to include responsibility for violations of the existing norms of international law, or “internationally wrongful acts”. A distillation of the views of all United Nations member states on the responsibility of states for internationally wrongful acts was adopted by the UN General Assembly in its 53rd session in 2001. These [Articles on State Responsibility](#) (ARSIWA) – which India has long [supported](#) – open with the assertion that every internationally wrongful act by a state entails the responsibility of that state (Article 1).

India’s single most significant allegation against Pakistan is its support and sponsorship of anti-India terrorist groups, especially since the 1990s following the beginning of the Kashmir insurgency. Both before and parallel to this, and until their last semi-conventional war in Kargil, 1999, Pakistan also relied on groups of ‘raiders’ mixed with Pakistan Army regulars to trigger at least three wars with India. New Delhi’s assertions of Pakistan’s support to terror groups, has United Nations sanction, at least since UN Security Council adopted [Resolution 1267](#) (1999) in which it designated several Pakistan-based anti-India terror groups, including the Lashkar-e-Taiba (LeT) and the Jaish-e-Mohammed (JeM). This has been reiterated and strengthened by subsequent resolutions. Terror attacks by these groups (as well as their direct proxies) have been a [recurrent feature](#) of Pakistan’s policy to pressure India’s position on the Kashmir dispute. These attacks have ranged from mass casualty civilian bombings and shootings to attacks on the Indian Parliament, State Assemblies, and military installations and bases.

The latest [attack](#) in Pahalgam was a targeted attack against Hindu tourists from several parts of India, by a proxy force of the LeT – The Resistance Front. Already by hosting these

groups Pakistan has consistently breached an old customary norm of international law – famously reasserted by the International Court of Justice in [Nicaragua v. United States \(1986\)](#) – an obligation to not let its territory to be used in a manner that infringes upon the rights of other states (here: India's).

Hence, even without Pakistan actively sponsoring terror groups, its passive facilitation of their activities would amount to an internationally wrongful act. But Pakistan also actively funds and directs the activities of these groups either in whole or in part.

International jurisprudence is divided over whether a state should have 'overall' control ([Nicaragua v USA, ICJ](#)) or 'effective' control ([Prosecutor v Duško Tadić, ICTY](#)) over a group to garner responsibility. However, Pakistan's actions attract such responsibility in both the letter and spirit of Article 8 of the ARSIWA, which considers the conduct of groups as acts of the state which instructs, directs, or controls such conduct. The [consistency](#) of such attacks in India across two decades also amounts to Pakistan's wrongful act being continually conducted in breach of its obligation for cessation and non-repetition of such acts (Article 30).

The Use of Force

As the state that has consistently suffered the consequences of the wrongful acts for which the Pakistani state is responsible, India has a raft of rights and duties drawn from both customary and conventional principles in international law.

The most obvious among these is the supersession of [Article 2\(4\)](#) of the UN Charter, which prevents using force, with [Article 51](#), which enables states to respond to an "armed attack". Despite the strict thresholds that an act has to meet to qualify as an "armed attack" as well as the fact that the

global practice of invoking Article 51 against terrorists is still new (relative to other historic principles of interstate conduct), India's case is relatively unique. Unlike globalized traditional jihadist groups or armed non-state actors in Iraq, Yemen, Lebanon, or Palestine (where these groups share in government and have some degree of autonomy) India-focused groups such as JeM and LeT draw succor and support from the Pakistani security establishment and are [actively used](#) by the state as instruments of policy. This also makes India's case distinct from the United States' traditional (and globally unrecognized) basis for the use of force against a state which is "[unable or unwilling](#)" to act against such groups. Here, the Pakistani state actively co-opts these groups as part of a deliberate strategy of sub-conventional war and has also historically helped key individuals from these terror groups find new sanctuaries from international action through diplomatic, political, and security cover – a unique mix.

Therefore, apart from India retroactively considering acts of terror as acts of war (and hence legitimizing a counterattack), New Delhi also benefits from the ARSIWA's provisions on 'countermeasures'.

First, such measures should be taken "as far as possible" in such a way as "to permit the resumption of performance" (by Pakistan) of the obligations it has breached (Article 49). In the last two decades, India has attempted to cooperate several times with Pakistan to demand fulfillment of Islamabad's international obligations by eliminating terror groups on its soil. The [Composite Dialogue](#) process itself was scuttled, among other things, by a mass casualty terror attack in Mumbai in 2008, reflecting Pakistan's strong inclination to continue its wrongful acts.

Second, countermeasures must be both necessary and proportional, i.e., commensurate with the injury suffered, "taking into account the gravity of the internationally

wrongful act” (Article 51, ARSIWA). India began taking such countermeasures in 2016, with the latest in May 2025 (Op Sindoor). India’s strikes in [Op Sindoor](#) on May 7 were “focused, measured and non-escalatory”, conducted within 30 minutes and against terrorist infrastructure in Pakistan, commensurate with the attacks conducted by these groups in India. Moreover, by explicitly asserting that Pakistani military facilities were not targeted, India’s actions also stayed clear of being a ‘[reprisal](#)’ or a disproportional act of vengeance. India’s response to each round of Pakistani escalation on the nights of May 8 and 9 was similarly proportional, conducted on the heels of Pakistan’s attacks, which Islamabad justified as responses to violations of its sovereignty.

Crucially, however, India’s countermeasures and its conduct cannot be considered internationally wrongful acts themselves. International sanction for such actions has evolved through decades of state practice, with the ARSIWA codifying it in Article 22 – it asserts that the wrongfulness of such actions is precluded if it qualifies as a countermeasure. Essentially, then, it is not the case that India’s use of force does not violate Pakistan’s sovereignty or stays clear of Article 2(4) of the Charter. Rather, within a strict scope and scale, India’s actions are justified violations of Pakistani sovereignty and exceptions to Article 2(4), since they are legal countermeasures to Pakistan’s continuing wrongful acts.

Moreover, India has consistently worked within the UN’s larger legal framework. While it kept the members of the UNSC [apprised](#) of its intent and right to self-defense (as also implicitly required by Article 51 of the Charter) before/during/after May 7 through bilateral [communications](#), India has also spent years presenting [evidence](#) against Pakistan to the UN. This includes providing intelligence about The Resistance Front’s links to Pakistan-based groups to the 1267 Sanctions Committee.

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India’s Contribution to an Evolving Norm

The United Nations Charter was formally adopted decades before terrorism became a global threat. In line with both the need to evolve the global understanding of the Charter’s provisions – specifically on self-defense – and the growing intensity of terrorist conduct (such as in 9/11), the UN Security Council concluded at least a quarter century ago that a state’s inherent right to self defence can be invoked against acts of terrorism. Both UNSCR [1368](#) and [1373](#) reaffirmed this, while also categorizing the 9/11 attacks as a “threat to international peace and security” (with a rare invocation of Chapter VII of the UN Charter). Drawing from Article 25 of the Charter and subsequent [ICJ jurisprudence](#), such UNSC Resolutions form a part of the extant norms of international law (*lex lata*) and are legally binding on states.

India’s actions then are an advancement of the reasoning in these resolutions, but without the excesses of force conducted by other states in their actions against terror groups. Unlike the coalitions led by the United States after 9/11 or Israel’s actions after Hamas’ October 7th terror attacks, the Indian action was necessary and proportionate, against nine terror targets in Pakistan. India also communicated the cessation of its operations to Pakistan,

while also asserting its right to respond if Pakistan escalates proportionately.

Given Pakistan's targeting of Indian military infrastructure, India calibrated its escalation, first against Pakistan's air defence sites, followed by its airbases. Throughout its countermeasures, India restricted itself to proportional terrorist (May 7) and military (May 8, 9) targets. Essentially, in all three times that India has exercised its right to countermeasures since 2016, its actions have been strictly proportionate. Unlike both American actions in [Afghanistan](#) and [Iraq](#) which have included unjustified excesses and recognized breaches of international law, as well as Israeli actions in Gaza for which the International Court of Justice is investigating the [charge of genocide](#), the Indian military action is a rare and unique application of international law which significantly involved the element of restraint (and effectively respect for Pakistan's sovereignty). Such restraint is crucial to ascribing legal intent to a state's actions ([opinio juris](#)) since India was cognizant of its international legal responsibilities. Combined with its practice, Op Sindoor, as well as India's past cross-border action, is a distinct and laudable advancement of state practice that further contributes to the evolving custom of self-defense against terror groups in another state. Within such framing, any future terror attack in India actively sponsored or passively enabled by Pakistan allows India to continue its countermeasures.

Essentially, should India's response uphold the same characteristics as May 2025, it will be among the few states to uphold and further the norm of proportionate self-defense against terror groups in another state, without excesses against that state's sovereignty, with sincerity and diligence. Each such action flows from Pakistan's responsibility for acts that are legally recognized as internationally wrongful.