

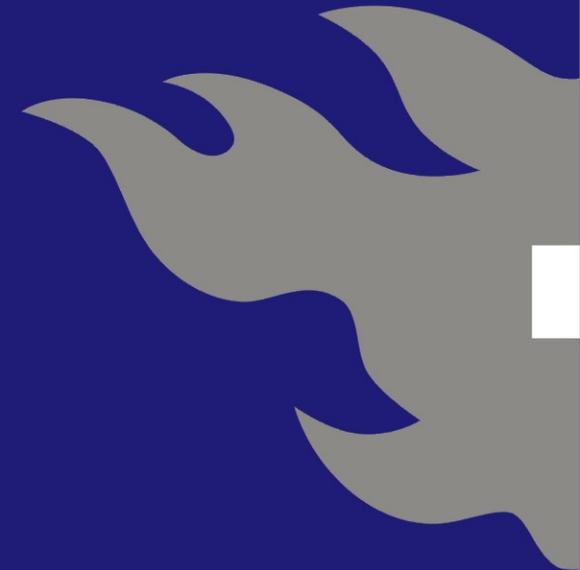


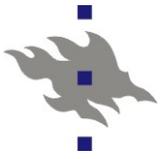
HELSINGIN YLIOPISTO  
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# War and Law: Paradoxes of a Civilizing Project

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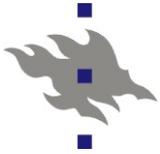
## War From “Politics” to “Law”

### “Balance of Power”

- Concert of Europe  
1815-1914
- Political discretion
- Free manoeuvring

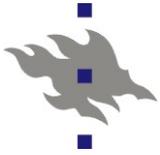
### “Collective Security”

- League of Nations 1919-  
1939
- Rule-application
- Institutional decision



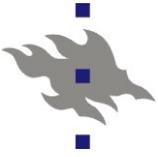
## Problems with Rules: League Covenant, Articles 10 & 16

- “Should any Member of the League resort to war in disregard of its covenants ... it **shall *ipso facto* be deemed to have committed an act of war** against all other Members of the League, which hereby **undertake immediately** to subject it to the severance of **all trade or financial relations...**”



## League of Nations experience

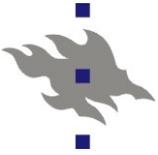
- The Chaco War 1928-35
- The Manchurian War 1931-32
- Italy-Abyssinia 1935-36
- Remilitarization of the Rhineland (March 1936)



## Rules are

### **good because they:**

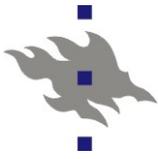
- Deter;
- Do not allow political manipulation;
- Are efficient and fast;
- Are easy to operate;
- Treat everyone in the same way;
- Do not rely on social cohesion.



## Rules are

### **bad because they:**

- Generalize any conflict;
- Do not take into account particular circumstances;
- Are dangerous to apply;
- Put countries in a de facto different position;
- Rely on social cohesion



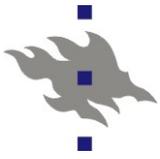
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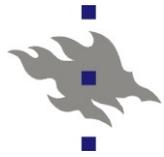
## UN: From rules to discretion

### Article 2:4

■ “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.”

### Article 39

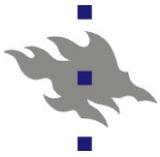
■ “The **Security Council shall determine** the existence of any **threat to the peace**, breach of the peace, or act of aggression and shall **make recommendations**, or decide what measures shall be taken... to maintain or restore international peace and security.”



## The problem with discretion: Illegal but legitimate?



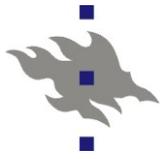
Kosovo 1999 – Iraq 2003



## “Responsibility to Protect 1999-2011”

- Kosovo 1999
- ICISS 2001 R2P Report
- UN World summit 2005
- Libya 2011
- Syria (560.000 killed, 6,7 M refugees, 6,2 M internally displaced)





## The Paradox

### Rule

- Automatic, no misuse (500 killed).

But:

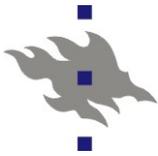
- Permits everything it does not prohibit
- Over-inclusive and under-inclusive

### Discretion

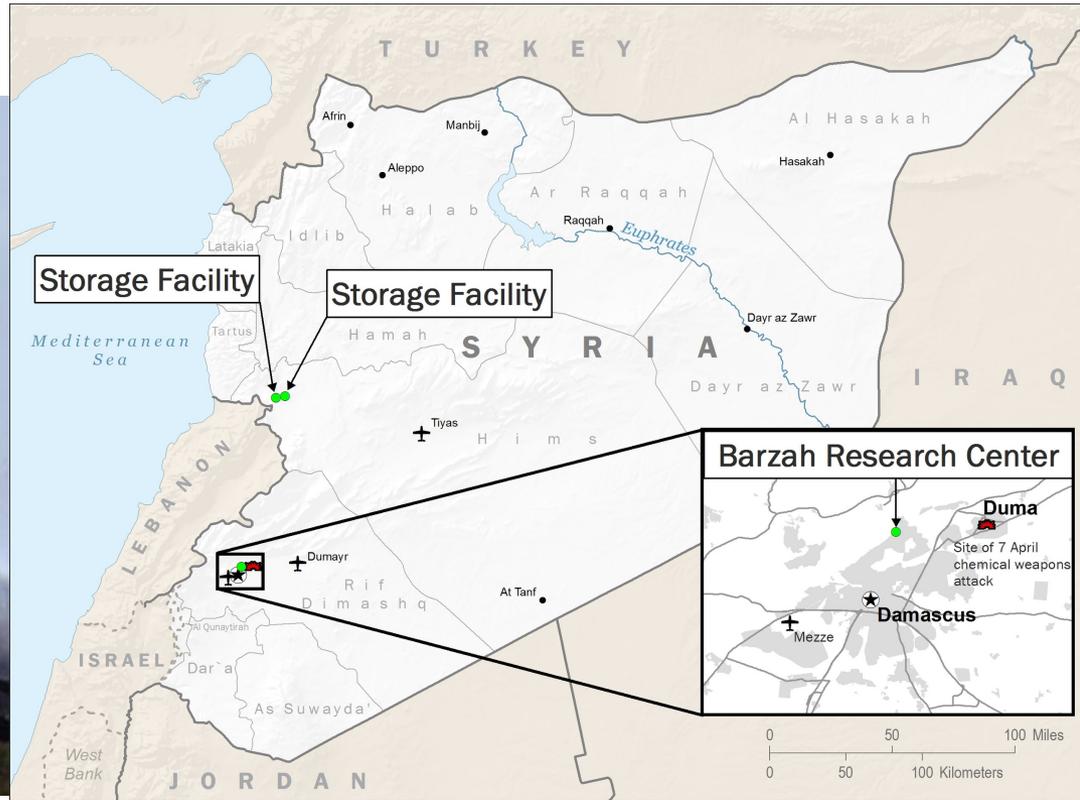
- Allows intelligent policy-making

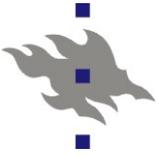
■ But:

- Opens the door for “imperial” wars;
- Cannot be controlled



# The end? Libya 2011 Syria 2013-2019





# Law and War

