

THE CASE FOR A CONCRETE WMD DEFINITION: STUDYING THE LEGALITY OF BREACHING NATIONAL SOVEREIGNTY

Zachy Gross¹

Weapons of mass destruction occupy a uniquely powerful position in international law, shaping arms control regimes, deterrence strategies, and debates over the lawful use of force. Despite this central role, the term “weapon of mass destruction” lacks an authoritative definition in treaty law or customary international law. Historically, nuclear, chemical, and biological weapons were regulated through distinct legal frameworks focused on nonproliferation and disarmament, not discussing potential authorization of force. In recent decades, however, the concept of WMDs has increasingly migrated into use-of-force discourse, raising critical questions about how an undefined legal category can influence national sovereignty and justify intervention.

This paper argues that the absence of a concrete definition of weapons of mass destruction has enabled the expansion of the term beyond its traditional boundaries, lowering perceived legal thresholds for military action. Through case studies involving Iraq, Iran, and Venezuela, it demonstrates how WMD designation has come to function as a justificatory shortcut rather than a legally constrained category. This paper concludes that definitional discipline is necessary not to authorize force, but to preserve the limits imposed by the United Nations Charter and prevent further erosion of state sovereignty.

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¹ Zachy Gross is an editor and a writer for the YU Undergraduate Law Review. He is a sophomore at Yeshiva College majoring in Political Science and History. In addition to the YUULR, Zachy is Editor-in-Chief of the Clarion Political Science Journal, Managing Editor of Chronos, part of the Mock Trial Team, YUPAC, YUNMUN, and is a pitcher and catcher for the Yeshiva University Baseball Team. He is originally from Boca Raton, Florida.

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I. WHAT IS A WEAPON OF MASS DESTRUCTION?

A. *Introduction*

In a resolution adopted by the Security Council on August 12, 1948, the United Nations defined Weapons of Mass Destruction (WMDs) as “atomic explosive weapons, radioactive material weapons, lethal chemical and biological weapons, and any weapons developed in the future that have characteristics comparable in destructive effect to those of the atomic bomb or other weapons mentioned above.”² The United States, in 18 U.S.C. § 2332a, codifies it “as any of the following: (1) a destructive device, such as an explosive or incendiary bomb, rocket, or grenade, (2) a weapon that is designed to cause death or serious injury through toxic or poisonous chemicals, (3) a weapon that contains a biological agent or toxin, or (4) a weapon that is designed to release dangerous levels of radiation or radioactivity.”³

Most recently, in an executive order on December 15, 2025, President Donald Trump expanded the United States’ definition by “designat[ing] illicit fentanyl and its core precursor chemicals as Weapons

² Comm. for Conventional Armaments, Res. Adopted by the Commission at Its Thirteenth Meeting, Aug. 12, 1948, U.N. Doc. S/C.3/32/Rev.1.

³ *Weapons of Mass Destruction*, FED. BUREAU OF INVESTIGATION, <https://www.fbi.gov/investigate/wmd>.

of Mass Destruction.”⁴ The administration’s core claim was that “[i]llicit fentanyl is closer to a chemical weapon than a narcotic,”³ placing this drug in the same legal category as nuclear weapons. While the United Nations’ baseline definition exists, the absence of binding universal adoption has left it vulnerable to unilateral expansion by individual states—raising the question of how far that malleability can stretch before the term loses its legal meaning entirely.

B. *WMDs: A Brief History*

The phrase “mass destruction” carries considerable weight in public consciousness. Most people immediately associate it with the Manhattan Project, where a group of scientists led by J. Robert Oppenheimer produced the first atomic bomb,⁵—leading to the dropping of “Little Boy” on August 6, 1945, in Hiroshima, Japan, and followed by “Fat Man” in Nagasaki on August 9—resulting in a minimum of 200,000 deaths.⁶ However, the history of weapons of mass destruction extends far beyond the atomic age.

Though “the bomb” was invented in the twentieth century, the current definition of Weapons of Mass Destruction includes biological and chemical weapons, both possessing far longer histories. The first recorded use of a bioweapon dates to the 6th century BCE, when “Assyrians poisoned enemy water supplies with [a fungus called] rye ergot,”⁷ compromising the former in ways that “caused delusions, paranoia,

⁴ Exec. Order No. 14,367, *Designating Fentanyl as a Weapon of Mass Destruction* (Dec. 15, 2025), <https://www.whitehouse.gov/presidential-actions/2025/12/designating-fentanyl-as-a-weapon-of-mass-destruction/>.

⁵ *Manhattan Project*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/event/Manhattan-Project>.

⁶ *Atomic Bombing of Hiroshima and Nagasaki*, NAT’L ARCHIVES, <https://visit.archives.gov/whats-on/explore-exhibits/atomic-bombing-hiroshima-and-nagasaki>.

⁷ *First Use of Biological Warfare*, UCLA CTR. FOR NEAR EASTERN STUD., <https://www.international.ucla.edu/cnes/article/1352>.

seizures, twitching, and cardiovascular problems that can lead to death.”⁸ Use of chemical weapons can be dated even earlier, in the 5th century BCE, “during the Peloponnesian War, when the Spartans used smoke from burning coal, sulfur, and pitch to temporarily incapacitate and confuse occupants of Athenian strongholds.”⁹ Under both the United Nations and United States definitions, weapons of mass destruction have been employed for over a millennium.

In the 20th century, and specifically starting with World War I, Weapons of Mass Destruction truly saw military use on a *massive* scale, as Germans (and other powers) deployed both biological and chemical weapons. Bioweapons included glanders to infect horses, mules, and livestock destined for Allied forces, aimed to paralyze Allied transport, artillery, and cavalry.¹⁰ Chemical weapons included mustard gas, with “wave[s] of asphyxiating gas released from cylinders embedded in the ground by German specialist troops.”¹¹

Despite international agreements to prohibit WMD use—beginning with the 1925 Geneva Protocol¹²—actors have continued to proliferate and deploy them against civilian populations. In 2001, following the 9/11 attacks, an American named Bruce Ivins carried out “anthrax letter attacks [that] killed five people and sickened 17 others.”¹³ In 2013, the Assad regime

⁸ *First Use of Biological Warfare*, GUINNESS WORLD RECORDS, <https://www.guinnessworldrecords.com/world-records/first-use-of-biological-warfare>.

⁹ Ramesh C. Gupta, *Introduction*, in HANDBOOK OF TOXICOLOGY OF CHEMICAL WARFARE AGENTS (Ramesh C. Gupta ed., 2d ed. 2015), <https://www.sciencedirect.com/science/chapter/edited-volume/abs/pii/B9780128001592000014>.

¹⁰ *Tony's Lab: Biological Warfare in WWI*, NAT'L ARCHIVES, <https://www.archives.gov/publications/prologue/2017/fall/tonys-lab>.

¹¹ *First Usage of Poison Gas*, NAT'L WWI MUSEUM AND MEMORIAL, <https://www.theworldwar.org/learn/about-wwi/spotlight-first-usage-poison-gas>.

¹² Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, June 17, 1925, 26 U.S.T. 571, 94 L.N.T.S. 65.

¹³ U.S. DEPT OF JUSTICE, AMERITHRAX INVESTIGATIVE SUMMARY (2010), <https://www.justice.gov/archive/amerithrax/docs/amx-investigative-summary2.pdf>.

used “toxic gas chemical weapons in the Syrian war” against innocent civilians.¹⁴ Nuclear weapons may have been used only twice in the history of warfare, but the proliferation and deployment of weapons of mass destruction have continued into the present day.

C. *Defining WMDs*

There is a reason that Weapons of Mass Destruction typically evoke images of nuclear weapons and mushroom clouds rather than masks worn to prevent death by asphyxiation. Yet under modern definitions, both fit within the same legal category, and the definition only continues to expand.

Some scholars, such as political scientists Philip Morrison and Kosta Tsipis, advocate for a more exclusive definition. They argue that chemical and biological weapons, compared to nuclear weapons, “are fundamentally different in terms of lethality, in the area they cover and over time; in the availability of measures that can protect against them; and in their potential tactical, strategic, and terrorist uses.”¹⁵ Therefore, when considering the term “mass destruction,” they argue, the definition should be limited to nuclear weapons alone.

Nuclear weapons possess world-altering capabilities, as “several nuclear explosions over modern cities would kill tens of millions of people.”¹⁶ This observation does not diminish the catastrophic and brutal effects of chemical and bioweapons, but their more limited potential scale and scope of destruction in comparison to nuclear weapons present a compelling argument for why the definition should be limited.

¹⁴ *The Use of Chemical Weapons in the Syrian Conflict*, 94 POSTGRAD. MED. J. 293 (2018), <https://pmc.ncbi.nlm.nih.gov/articles/PMC5901879/>.

¹⁵ Philip Morrison & Kosta Tsipis, *Weapons of Mass Destruction: New Perspectives*, 59 BULL. ATOM. SCIENTISTS 43, 77 (2003).

¹⁶ *Catastrophic Harm of Nuclear Weapons*, INT’L CAMPAIGN TO ABOLISH NUCLEAR WEAPONS, https://www.icanw.org/catastrophic_harm.

The definitional ambiguity surrounding WMDs carries significant consequences beyond academic classification. An undefined category can serve as a catalyst for states to override another nation's sovereignty under the justification of maintaining international peace and security. Three contemporary examples involving the United States—the invasion of Iraq, Operation Midnight Hammer in Iran, and the recent detention of Maduro in Venezuela—demonstrate how WMD classification has been invoked, and at times stretched, to justify breaches of sovereignty.

II. WMDs AND United States USE OF FORCE: THREE CASE STUDIES

A. *Iraq*

Resolution 1441, adopted by the United Nations Security Council on November 8, 2002, found Iraq to be in continued noncompliance with its disarmament obligations. It declared that Iraq had failed to provide a “full, final, and complete disclosure...of all aspects of its programmes to develop weapons of mass destruction and ballistic missiles” and demanded “immediate, unimpeded, unconditional, and unrestricted access”¹⁷ for inspectors. While the Resolution declared Iraq to be in material breach of its disarmament obligations and warned of “serious consequences,” it did not expressly authorize the use of force, instead requiring any further Iraqi noncompliance to be reported to the Security Council for assessment.

Despite the absence of explicit authorization, less than four months later, on March 19, 2003, the United States invaded Iraq. President Bush proclaimed in laying the strategic groundwork for the invasion that “the United States of America will not permit the world's most dangerous regimes to threaten us with the world's most destructive weapons,”¹⁸

¹⁷ S.C. Res. 1441, U.N. Doc. S/RES/1441 (Nov. 8, 2002).

¹⁸ George W. Bush, Address Before a Joint Session of the Congress on the State of the Union, 1 Pub. Papers 129, 131 (Jan. 29, 2002).

framing the invasion as a necessary response to the inherent danger that is posed by the alleged Iraqi possession of Weapons of Mass Destruction.

Regardless of the accuracy of the underlying intelligence, the pretext for the United States invasion rested on the grounds of Iraqi possession of Weapons of Mass Destruction, which violated international law. Notably, Iraq had been a signatory to the Nuclear Non-Proliferation Treaty since 1968,¹⁹ meaning that suspected possession was not merely a general violation of international law, but a breach of a specific treaty obligation—one that the United States invoked as further justification for intervention. The mere (suspected) possession of weapons of mass destruction—a violation of international law²⁰—was therefore treated as sufficient justification to breach Iraqi sovereignty.

The fear of WMDs as a potential threat to civilian populations served as justification for the United States to enter a war in which even greater casualties occurred. After the conclusion of major combat operations, “[m]ore than half a million Iraqi people...died from violent causes since the March 2003 invasion,”²¹ yet investigators found a “failure to find [any] weapons stocks or active production lines.”²² The Iraq case clearly illustrates how classification alone—even untethered from physical evidence—may be utilized as a justifiable trigger for military intervention against a sovereign state.

B. *Iran*

In 2015, President Obama announced the Joint Comprehensive Plan of Action (JCPOA), a multilateral deal with Iran designed to “permanently

¹⁹ Treaty on the Non-Proliferation of Nuclear Weapons, July 1, 1968, 21 U.S.T. 483, 729 U.N.T.S. 161.

²⁰ S.C. Res. 1441, *supra* note 17.

²¹ *Iraq WMD Investigation Report*, NAT'L SEC. ARCHIVE, <https://nsarchive2.gwu.edu/NSAEBB/NSAEBB80/>.

²² *Id.*

prohibit...Iran from obtaining a nuclear weapon.”²³ The agreement aimed to resolve concerns about potential Iranian nuclear proliferation and establish greater regional stability in the Middle East. However, upon assuming office, President Donald Trump characterized “[t]he Iran Deal [as] one of the worst and most one-sided transactions the United States has ever entered into” and withdrew from the agreement, reimposing and intensifying sanctions on Iran.²⁴

Without diplomatic progress toward a revised agreement, Iran’s nuclear activities accelerated. It’s “stock of uranium enriched to up to 60% purity, close to weapons grade,” raising alarm among regional and international observers.²⁵ When Israel launched military operations against Iran in what has been termed the Twelve-Day War, the United States faced a decision regarding its level of involvement. On June 22, 2025, “Operation Midnight Hammer successfully struck nuclear sites deep inside Iran.”²⁶

Five months after the conclusion of the conflict, the Institute for Science and International Security assessed Iranian nuclear facilities and found that “the main nuclear sites at Fordow, Natanz, and Esfahan were largely destroyed and have seen little significant activity since the war.”²⁷

²³ President Barack Obama, Remarks on the Iran Nuclear Deal (Aug. 5, 2015), <https://obamawhitehouse.archives.gov/the-press-office/2015/08/05/remarks-President-iran-nuclear-deal>.

²⁴ President Donald J. Trump, Statement on the Iran Deal (May 8, 2018), <https://trumpwhitehouse.archives.gov/briefings-statements/president-donald-j-trump-endin-g-united-states-participation-unacceptable-iran-deal/>.

²⁵ *Iran’s Near Bomb-Grade Uranium Stock Grew Before Israeli Attack, IAEA Says*, REUTERS (Sept. 3, 2025), <https://www.reuters.com/business/energy/irans-near-bomb-grade-uranium-stock-grew-befo-re-israeli-attack-iaea-says-2025-09-03/>.

²⁶ 388th Fighter Wing, *Operation Midnight Hammer Strike*, U.S.AIR FORCE (2025), <https://www.388fw.acc.af.mil/News/Article-Display/Article/4341061/388th-fw-pilots-f-35s-paved-the-way-for-midnight-hammer-strike/>.

²⁷ David Albright, Sarah Burkhard, Spencer Faragasso & the Good ISIS Team, *Comprehensive Updated Assessment of Iranian Nuclear Sites Five Months After the 12-Day War*, INST. FOR SCI. & INT’L SEC.. (Nov. 21, 2025), <https://isis-online.org/isis-reports/comprehensive-updated-assessment-of-iranian-nuclear-sites-five-months-after-the-12-day-war>.

The Iran case represents another instance in which the United States utilized military force against a sovereign nation in response to feared WMD proliferation. Once the term “weapons of mass destruction”—in this instance, the nuclear bomb, which fits under any scholar’s definition—became associated with Iranian capabilities, the United States took action to prevent proliferation.

C. *Venezuela*

On December 15, 2025, the United States expanded its use of weapons of mass destruction terminology beyond its traditional scope. President Donald Trump issued an executive order that “designat[ed] illicit fentanyl...as Weapons of Mass Destruction,”²⁸ a classification that departed sharply from the nuclear, chemical, and biological weapons traditionally associated with the term. During this same period, United States military forces increased operations in the Caribbean, conducting “military strikes on alleged drug-trafficking boats”²⁹ in the region as part of broader counter-narcotics and security initiatives. These developments culminated on January 3, 2026, when “a surgical law enforcement operation facilitated by the United States military”³⁰ resulted in the capture of President Nicolás Maduro in Venezuela.

Correlation does not establish causation. Nevertheless, when examined alongside prior U.S. uses of force in Iraq and Iran, the invocation of WMD terminology once again appeared in proximity to military and coercive action. Venezuela had been identified in the United Nations Office on Drugs and Crime’s 2025 World Drug Report “as a key trafficking route in

²⁸ Exec. Order No. 14,367, *supra* note 4.

²⁹ *Instability in Venezuela*, COUNCIL ON FOREIGN RELATIONS, <https://www.cfr.org/global-conflict-tracker/conflict/instability-venezuela>.

³⁰ U.S. MISSION TO THE UNITED NATIONS, Remarks on Venezuela (2026), <https://usun.usmission.gov/remarks-at-a-un-security-council-briefing-on-venezuela-2/>.

the Western Hemisphere.”³¹ Shortly thereafter, the substances most closely associated with that trafficking were designated by the United States as weapons of mass destruction—this definitional expansion placing Venezuela within a security framework historically reserved for the most exceptional threats.

While other legal and policy justifications existed for U.S. actions in and around Venezuela, the episode illustrates how WMD designation can function as a powerful justificatory mechanism. Military operations involving Venezuelan targets were framed in part around preventing the proliferation of substances newly categorized as WMDs. This case represents the most significant departure from traditional WMD scenarios in the two aforementioned case studies, and it most clearly demonstrates how expansive definitions can lower perceived barriers to coercive action against a sovereign state, in contexts far removed from nuclear or chemical weapons.

III. CAN WMDs ALONE LEGALLY JUSTIFY INVASION?

Article 2(4) of the United Nations Charter provides that “[a]ll 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.”³² This provision establishes a broad prohibition on the use of force by one sovereign state against another. The critical question, however, is not whether WMDs are dangerous—they plainly are—but whether the Charter permits force in response to their suspected possession or development. Under the text of Article 2(4), force is unlawful unless it falls within one of the Charter’s recognized exceptions. Notably, possession or development of weapons of mass destruction is not listed

³¹ *Id.*

³² U.N. CHARTER art. 2, ¶ 4.

anywhere in the Charter as an independent justification for breaching another state's sovereignty.

Article 51 of the United Nations Charter permits "individual or collective self-defence if an armed attack occurs against a Member of the United Nations."³³ When the Security Council determines that a threat to international peace exists, it may first impose non-forcible measures under Article 41, such as "complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations."³⁴ Only if those measures prove inadequate, the Security Council may authorize force under Article 42. The Charter's structure, therefore, vests the authorization of force in the Security Council, not in individual member states acting on their own threat assessments.

The language of Article 51 specifically refers to "armed attack."³⁵ Possession, development, or suspected stockpiling of WMDs does not meet this threshold. As written, Article 51 does not extend to situations where a state fears that another state might *someday* use such weapons; without Security Council authorization under Chapter VII, intervention based solely on WMD ownership does not fit comfortably within the Charter's text.

Yet the Charter's clarity has not ended the debate. As concerns over nuclear proliferation and long-range missile systems intensified, policymakers and scholars began to question whether waiting for an actual armed attack remained viable in an age of WMDs. Once the subject of deterrence is introduced as a defensive strategy, states have increasingly questioned whether the Charter's existing self-defense framework adequately addresses the risks posed by weapons of mass destruction.

³³ U.N. CHARTER art. 51.

³⁴ U.N. CHARTER arts. 41–42.

³⁵ U.N. CHARTER art. 2, ¶ 4.

Thomas Graham Jr., a United States diplomat and expert in arms control, argues that “weapons of mass destruction and long-range ballistic missile systems might make waiting for an actual armed attack exceedingly dangerous.” According to this view, traditional self-defense doctrine may prove inadequate as a framework for addressing developing WMD threats.

Graham distinguishes between Cold War-era deterrence strategies and contemporary proliferation concerns. He contends that “a Cold War-style nuclear deterrence strategy with a secure second-strike capability is the only practical policy in dealing with a modern nuclear weapon state,” meaning that “a threatened preemptive strike in anticipatory self-defense would be a viable option only against states that have not [yet] become modern nuclear weapon states.”³⁶ Under this theory, preventing WMD proliferation preemptively may constitute lawful self-defense, particularly where the window for effective defensive action is narrow. Given that Article 51’s text does not explicitly address nuclear capabilities or the timing of defensive actions, there is a potential interpretation under which preemptively preventing WMD proliferation falls within the scope of self-defense.

Graham brings the case of Israel’s 1981 attack on Iraq’s Osiraq nuclear reactor shortly before the facility would have become operational. He argues that Israel could plausibly characterize the attack as self-defense, reasoning that Iraq’s refusal “to recognize Israel’s right to exist and endorse[ments of] violence against Israel” created a credible threat that “[t]hose nuclear weapons could be used against Israel.”³⁷ Using this logic, the attack could constitute lawful self-defense, given that waiting for an actual armed attack would render responsive defensive action ineffective once such weapons had already been acquired.

³⁶ Thomas Graham, Jr., *National Self-Defense, International Law, and Weapons of Mass Destruction*, 4 Chi. J. Int’l L. 1, 10 (2003).

³⁷ *Id.*

As discussed previously, Resolution 1441 addressed Iraq's noncompliance with its disarmament and transparency obligations concerning weapons of mass destruction (it should be noted that the 2002 resolution was an additional attempt at curtailing Iraqi nuclear ambitions, some two decades after the Israeli strike of 1981). The resolution warned that Iraq "will face serious consequences as a result of its continued violations."³⁸ This language deliberately stopped short of expressly authorizing the use of force, but nonetheless its (tacit) ambiguity became central to later legal arguments—most notably exploited by the United States—which treated continued WMD noncompliance as sufficient to justify military action.

President Bush's invoked what became known as the "Bush Doctrine"—"affirming the legitimacy of an American preventive strike and emphasiz[ing] the notion that 'If you are not with us, you are against us'"³⁹—led scholars such as James Lindsay of the Brookings Institution's Foreign Policy Studies Program to characterize this approach as representing "preventive war" rather than legitimate self-defense under the Charter.⁴⁰ The distinction matters: self-defense responds to an imminent or actual attack; preventive war targets a threat that may materialize at some future point. By treating the potential existence of WMDs as sufficient justification for invasion—without Security Council authorization—the United States effectively substituted unilateral threat assessment for the multilateral framework the UN Charter was designed to require.

This pattern reflects a broader reality of international relations: historically, great powers have made decisions regarding the use of force based on self-interest, rather than Security Council authorization or lack

³⁸ S.C. Res. 1441, *supra* note 17.

³⁹ *The Bush Doctrine*, CARNEGIE ENDOWMENT FOR INT'L PEACE (Oct. 2002), <https://carnegieendowment.org/russia-eurasia/posts/2002/10/the-bush-doctrine>.

⁴⁰ *Id.*

thereof. The Charter, drafted in a pre-WMD proliferation era, lacks the enforcement mechanisms necessary to constrain such behavior, meaning that its framework, however legally sound, has proven difficult to enforce against states willing to act unilaterally.

IV. THE CONSEQUENCES OF DEFINING WMDs TOO BROADLY

A. *Expansion of the Term WMD*

Despite decades of definitional efforts, “neither treaty law nor customary international law contains an authoritative definition of WMD.”⁴¹ Most states continue to define WMDs within the three traditional categories of chemical, biological, and nuclear weapons, but the absence of a universally adopted binding definition permits individual states to stretch or narrow the term at will, opening the door to interpretive abuse. As W. Seth Carus, Emeritus Distinguished Professor of National Security Policy at the National Defense University’s Center for the Study of Weapons of Mass Destruction, observes, any attempt to redefine or exclude categories creates complications because, despite the lack of a concrete definition, the term “appears in several arms control treaties.”⁴²

Carus “identified more than 40 different definitions of WMD”⁴³ in his research, noting that “[a]ll suffer from flaws, either conceptual or in the implications of their use to guide policy.”⁴⁴ This finding reveals a troubling pattern: as time passes, definitions multiply, increasing opportunities for

⁴¹ David P. Fidler, *Weapons of Mass Destruction and International Law*, AM. SOC’Y INT’L L. (Feb. 2003), <https://www.asil.org/insights/volume/8/issue/5/weapons-mass-destruction-and-international-law>.

⁴² W. SETH CARUS, DEFINING “WEAPONS OF MASS DESTRUCTION” 2 (Nat’l Def. Univ., Occasional Paper No. 4, 2012), [https://wmdcenter.ndu.edu/Portals/97/Documents/Publications/Occasional%20Papers/OP4 Carus.pdf](https://wmdcenter.ndu.edu/Portals/97/Documents/Publications/Occasional%20Papers/OP4%20Carus.pdf).

⁴³ *Id.*

⁴⁴ *Id.*

interpretive divergence and potential misapplication. Each new definition carries with it new legal implications and new possibilities for exploitation.

B. *From Arms Control to Force Justification*

During the Cold War, international efforts to limit WMDs focused primarily on deterrence and arms control. These concerns remain relevant, but the post-September 11 environment and the Bush Doctrine have produced an increasing emphasis on preemption and enforcement. As David P. Fidler, an international law scholar at the University of Indiana, argues, “[t]he traditional arms control approach no longer monopolizes the international legal strategy against WMD [sic]” due to “United States interpretations of international law [used] to justify military action against Iraq.”⁴⁵ In this new environment, military action has become a more prominent policy response.

C. *The Modern-Day Issue*

Contemporary state practice suggests that WMD possession can justify military action, yet significant concerns surround the definition itself and its expanding scope. The December 2025 designation of fentanyl as a WMD by the United States, followed within weeks by the detention of a head of state on his own territory, exemplifies this concern. The absence of clear definitional boundaries means that such acts of defining or redefining itself becomes justificatory.

The need for a definition is not primarily about determining what is considered “mass” enough. Rather, the need for a definition is to establish clear, predictable boundaries governing when one nation may lawfully employ force against another state. As Carus observes, “[d]epending on the

⁴⁵ Fidler, *supra* note 41.

definition adopted, the scope of the combating WMD mission could change substantially.”⁴⁶

Fentanyl is not a nuclear, chemical, or biological threat in the traditional sense. Yet the factual pattern is nevertheless straightforward: less than one month after fentanyl was classified as a WMD, the United States employed force within another country’s territory. WMD designation currently functions, in state practice, as a mechanism for providing legal justification for interventions against other sovereign states. As the definition continues to expand, more states may find themselves subject to such interventions—with corresponding increases in human costs.

CONCLUSION: THE CASE FOR A CONCRETE WMD DEFINITION

International law requires a concrete definition of WMDs. The three case studies examined in this paper—Iraq, Iran, and Venezuela—collectively illustrate a consistent pattern: WMD designation has preceded and accompanied U.S. military action against sovereign states, regardless of whether the underlying threat was verified, traditional, or even coherent within the term’s traditional scope. Without clear thresholds, undefined categories inevitably become subject to expansive interpretations that erode the protections of sovereignty. The current state of international relations demands a definition not in order to authorize the broader use of force, but rather to establish limits on when force may lawfully be employed. The landscape of WMDs has shifted from one of containment to one of the authorization of force, a transformation that has occurred without formal recognition by the United Nations or the development of corresponding legal frameworks.

The proposition that fentanyl is not comparable to a nuclear bomb is relatively uncontroversial. There is a reason why Morrison and Tsipis

⁴⁶ Carus, *supra* note 42.

argued for only nuclear weapons to be considered WMDs. Had their restrictive approach been adopted historically, some military interventions might not have occurred—potentially preventing associated casualties. However, the contrary argument deserves serious consideration: that an overly narrow definition could prove inadequate, and that the absence of international enforcement mechanisms for chemical and biological weapons could produce greater harm to civilian populations in the long run. Perhaps fentanyl's lethality and potential for mass casualties warrant its classification as a WMD, requiring international cooperation to prevent its proliferation.

This ongoing debate illustrates the fundamental challenge: without a concrete definition, no consensus exists regarding appropriate limits. It remains possible that “mass harm” and “mass destruction” should occupy the same legal category—but no authoritative mechanism currently exists to make that determination authoritatively. The United Nations' 1948 definition included language permitting the inclusion of “any weapons developed in the future that have characteristics comparable in destructive effect,”⁴⁷ but this ambiguity generates the same questions regarding fentanyl that it raises about emerging threats.

A concrete definition is required not to weaken international security, but to clarify which legal tools are appropriate for which threats. So long as no universally adopted binding definition exists, individual states retain the ability to expand or narrow the category at will, invoking WMD designation as a justificatory mechanism for intervention against sovereign states and eroding the very protections of sovereignty that international law was designed to uphold. Without definitional discipline, clarity regarding national sovereignty will remain elusive. Without knowing

⁴⁷ Comm. for Conventional Armaments, *supra* note 2.

the scope of what WMDs truly encompass, the term risks becoming not a warning but a warrant.

AFTERWORD

This paper was written in early 2026, before the situation in Iran had developed. On February 28, 2026, the United States and Israel launched coordinated military strikes against Iran under Operation Epic Fury, targeting nuclear infrastructure and military facilities. The stated justification centered on Iran's nuclear program and the threat of weapons of mass destruction proliferation.

This development is entirely consistent with the arguments advanced above. The association of a state with weapons of mass destruction—in this instance, a well-documented nuclear program—once again preceded significant military action. Regardless of the merits of the intervention, the episode further underscores the importance of clear, universally adopted definitional boundaries around weapons of mass destruction, and the serious consequences that follow when those boundaries remain contested. The three case studies in this paper, alongside Operation Epic Fury, suggest that the pattern is not coincidental: WMD classification functions, in contemporary state practice, as a predicate for force. Establishing a concrete definition is therefore not merely an academic exercise. It is a prerequisite for the meaningful enforcement of sovereign equality under international law.