

## THE CHANGING RULES OF *JUS AD BELLUM*: CONFLICTS IN KOSOVO, IRAQ AND AFGHANISTAN

W Scholtz

### Summary

This article focuses on three instances of the use of armed force in international relations. The three instances that are explored are the intervention by NATO in Kosovo, the armed attack by mainly the USA and the UK against Afghanistan and the war against Iraq in 2003. The purpose of this investigation is to examine the legality of the coercive measures in order to ascertain the effects that these actions had in relation to article 2(4) of the *UN Charter*. The proposed justifications for the attacks differ and these are carefully scrutinized against the *jus ad bellum* as to determine the legality of the attacks. The notion of humanitarian intervention was used as a ground for justification by various international scholars to explain the use of force in Kosovo, but this concept is not recognized in terms of international law. The attack on Afghanistan was based on article 51 of the *UN Charter*. The attacks were directed at Afghanistan as this state harboured the terrorists responsible for the attacks on the USA. The mere harbouring of terrorists does not give rise to the use of armed force on the basis of article 51 and as such the use of coercive measures against Afghanistan was illegal. The use of force in Iraq was mainly based on the doctrine of pre-emptive force which is alien to international law. The USA and its coalition partners also acted in contravention with the *jus ad bellum* in this regard. The author poses certain proposals in relation to the *jus ad bellum* and stresses the importance of article 2(4) which must ensure that international relations are not once more regulated by the use of armed force.