

# Legal Controls of the Right to Legitimate Self-Defence Conceptual Framework Boundaries of Legality and Instances of Exceeding Limits

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## Abstract

This research examines the right to legitimate self-defence as a fundamental entitlement guaranteed by legal frameworks to protect individuals from unlawful aggressions threatening their lives property or legitimate rights The study aims to clarify the concept of self-defence and its governing legal controls while defining the boundaries between the lawful exercise of this right and instances of exceeding limits that may trigger legal liability Furthermore the research discusses the essential criteria for the legality of self-defence including the existence of an imminent and real danger the inability to resort to public authorities and the necessity of proportionality between the aggression and the defensive means employed It also addresses cases where the boundaries of self-defence are exceeded such as through the use of excessive force or continuing defensive actions after the danger has ceased evaluating the corresponding legal consequences whether regarding exemption from criminal liability or the establishment of liability when legally prescribed boundaries are breached Additionally the research highlights the stance of the UAE legislator on the right to self-defence through the provisions of the UAE Penal Code which regulates the conditions for exercising this right and the mitigating circumstances when a breach occurs in good faith The study concludes that while the right to self-defence is a lawful mechanism for protecting rights and interests its practice remains restricted by precise legal controls designed to balance individual protection with the prevention of the abuse of force The paper emphasizes that assessing the legality of self-defence or the violation of its limits remains subject to the discretionary authority of the judiciary based on the specific facts and circumstances of each case.

**Keywords:** Legitimate Self-Defence, Proportionality of Force, Criminal Liability Exemption, UAE Penal Code, Exceeding Legal Limits

## Introduction

The right to legitimate self-defence stands as a foundational doctrine within modern jurisprudence, balancing the state's monopoly on violence with the individual's inherent right to security. While conventional legal scholarship often treats self-defence as a static statutory

exemption, contemporary debates within the social sciences increasingly view it as a dynamic socio-legal construct. This construct reflects evolving societal perceptions of threat, gender roles, and the state's capacity to protect its citizens.

Despite extensive legal commentary on the mechanics of self-defence, a significant research gap remains regarding how statutory frameworks adapt to contemporary, non-traditional threats such as cyber-aggression, psychological coercion, and fast-moving urban violence. Investigating these boundaries is critical, as contemporary social science literature warns that ambiguous self-defence parameters can either lead to vigilantism or unduly penalize victims who react under acute duress. Therefore, a clearer delineation of what constitutes "proportionate response" is essential to maintaining both legal integrity and social stability.

#### *The Legal Framework and Boundaries of Self-Defence*

Theoretically, the exercise of self-defence is not absolute; it is strictly governed by systemic regulations to prevent abuse. Jurisprudential consensus dictates that for a defensive act to be deemed lawful; it must satisfy two core conditions: immediacy and proportionality. The aggression must be actual, unlawful, and ongoing, necessitating an immediate response where state intervention is unavailable. Furthermore, the defensive force employed must be strictly limited to what is necessary to repel the threat. Any escalation beyond this threshold transforms a legitimate act of preservation into an unlawful assault.

Exceeding the limits of self-defence occurs when an individual deploys excessive force or continues defensive measures after the imminent danger has subsided. In such instances, the actor transitions from a victim to an aggressor, breaching the established legal boundaries and incurring criminal liability. This threshold is highly debated in sociology and criminology, as the perception of threat is often subjective, influenced by psychological trauma and situational context, which strictly objective legal metrics may fail to capture.

#### *Statutory Application: The UAE Jurisdictional Context*

Within the context of the United Arab Emirates, this legal balance is explicitly codified. The UAE Penal Code (Federal Decree-Law No. 31 of 2021, which superseded the amended Law No. 3 of 1987) delineates the parameters of legitimate defence under Article 55. The statute guarantees individuals the right to safeguard their person or property against unlawful aggression.

However, aligned with international legal standards, the UAE framework conditions this right on the strict absence of alternative recourse and the adherence to absolute necessity. By analyzing how UAE courts interpret "necessity" and "proportionality" amidst rapid socio-demographic changes, this study bridges the gap between doctrinal law and its socio-legal realities, offering a vital contribution to current comparative legal discourses in the region.

#### *First The Definition of the Right to Legitimate Self-Defence*

The right to legitimate self-defence is considered one of the fundamental entitlements guaranteed by law to individuals confronting unlawful aggressions. This right serves as a legal safeguard allowing a person to defend their life or property when facing an imminent danger that threatens their existence or wealth. However, this right is not absolute but is governed by

a framework of legal controls ensuring it is not abused thereby aligning it with the requirements of justice and the rights of others Kardman 2024

This section addresses the concept of self-defence focusing on the legal regulations imposed by various legislations to ensure the lawful exercise of this right Two main subsections are discussed the first clarifies the concept of self-defence and its boundaries of legality while the second examines instances of exceeding this right and contrasts the lawful use of self-defence with its unlawful application Al-Aghbari 2024

The right to self-defence is a lawful entitlement guaranteeing that an individual can protect themselves property or any other right subject to unlawful assault This right is among the legal assurances recognized by the judicial system to protect individuals from threats Confronting self-defence requires emphasizing that it is not an absolute right but is conditioned upon several legal controls aimed at ensuring its exercise within a reasonable and appropriate framework The legislative objective behind regulating this right is to protect individual rights from aggression while preventing its expansion to limits that could jeopardize public security Al-Talli 2020

Examining the conceptual framework of self-defence reveals that this right arises when an individual faces an unlawful threat targeting their life property or safety In such instances the individual is permitted to take the necessary measures to repel the aggression Consequently self-defence serves as a legal instrument for preserving individual rights and personal interests without holding individuals liable for their actions under these circumstances Therefore defending oneself or one's property through this right is legal as long as an actual necessity exists Nonetheless it is crucial to note that the right to self-defence is granted only in specific instances and under defined conditions to prevent its misuse Al-Najjar et al 2021

The conditions for exercising the right to self-defence are explicit in legal frameworks which mandate a set of regulations that must be present during an assault to justify defensive actions First there must be an imminent danger threatening the person their property or another individual and their property Second there must be a difficulty or impossibility in resorting to public authorities to avert this danger in a timely manner Third no other means must exist to repel the danger rendering self-defence the final option Finally the response must be appropriate and suited to the threat meaning that self-defence must not surpass reasonable boundaries or become excessive These conditions guarantee that self-defence remains a tool for protecting rights rather than a means for abuse or exceeding limits Bin Sadouk and Winton 2021

Furthermore maintaining a balance between legality and violation in self-defence holds great significance within the judicial system Self-defence cannot be used as an excuse for committing unlawful acts particularly when an individual exceeds the prescribed limits Exceeding limits occurs when force is applied excessively or when defence persists after the danger of aggression has ended In such cases the action is deemed unjustified and the individual loses legal protection Consequently exceeding the limits of self-defence represents a breach of the law and the judiciary must be the authority that evaluates whether the defensive action was lawful Mahdi 2024

The UAE legislator organized the right to self-defence within the UAE Penal Code establishing that an act committed within the framework of self-defence does not constitute a crime. The legislator specified a set of conditions required to apply this right including the necessity of an imminent and corresponding danger that could not be repelled by any other means. Legitimate defence does not authorize intentional homicide except in specific instances such as the fear of a crime that could lead to death or severe injury. The legislator also noted that it is impermissible to resist a member of the public authorities during the performance of their duties unless there is a real danger threatening life or likely to cause grievous hurt. Finally, Article 61 states that exceeding the limits of self-defence in good faith may be considered a mitigating excuse and could lead to an acquittal depending on the judge's assessment. Olayan and Abu Al-Hassan 2024

### *Second Instances of Exceeding the Limits of Self-Defence*

Instances of exceeding the limits of self-defence represent critical issues encompassed by the legal system to protect individual rights. A delicate balance must exist between the right to self-defence and the regulations preventing the excessive or unjustified use of force. While self-defence is recognized as a legitimate right when legal conditions are met, exceeding its limits constitutes a breach of this right and exposes the individual to legal liability. Exceeding limits refers to situations where the defensive force surpasses what is necessary to repel the aggression or when the defence continues after the danger has passed. Consequently, self-defence becomes unjustified in these circumstances. Ahmad 2025

The essential criterion distinguishing self-defence from a violation is the proportionality between the aggression and the response. Within the framework of self-defence, the reaction to an assault must correspond to the danger of the assault itself. For instance, if the aggression is limited or minor, the response must be similar in intensity. Therefore, when an individual employs excessive force such as killing the aggressor when the danger did not require it, this is considered exceeding the limits of self-defence. This violation is not restricted to homicide but can include any form of excessive force such as exaggerated physical assault or causing greater harm than necessary. Bin Sadouk and Winton 2021

Exceeding the limits of self-defence can also occur when a person overreacts to a non-serious assault or even when the threat is merely verbal or indirect. An example includes a situation where an individual is threatened with a knife or words and responds by using a firearm to deter the threat. In such cases, the action is deemed unjustified and fails to align with the principle of proportionality between defence and aggression. Therefore, it is vital that the response remains confined to what is necessary to avert the danger. Mahdi 2024

It is worth noting that continuing defensive actions after the danger has ceased is also considered a violation. For example, if a person continues to attack after the aggression has stopped or after the aggressor has become incapacitated or weak, this is deemed exceeding the limits. In this scenario, the action is no longer classified as legitimate defence but becomes an unlawful act punishable by law. This type of violation poses a threat to justice and constitutes an unjustified assault. Al-Aghbari 2024

Regarding UAE law, the UAE legislator addressed instances of exceeding the limits of self-defence, asserting in Article 61 of the UAE Penal Code that if an act is committed in defence

of self or property but the limits of self-defence are exceeded in good faith it is considered a mitigating excuse Consequently this grants the judge discretionary power in ruling on the case allowing them to consider good faith in certain circumstances and provide a reduced sentence or an exemption based on the surrounding contexts This renders the right to self-defence a sensitive topic requiring a precise balance between individual rights and legal justice Olayan and Abu Al-Hassan 2024

### *Third The Legality of Self-Defence*

The right to self-defence is a lawful entitlement authorizing an individual to defend themselves or their property against unlawful acts of aggression However this right is not absolute as the legislator imposes a series of regulations limiting its application Chief among these regulations is the proportionality between the aggression and the response self-defence cannot be resorted to unless the assault poses a genuine danger requiring an appropriate reaction Furthermore defence must cease as soon as the danger is eliminated Kardman 2024

In the event of exceeding the limits of self-defence any action deviating from these controls is considered unlawful For instance if an individual utilizes excessive force or continues defending after the danger has passed their action is viewed as a legal transgression Therefore it is essential to define the boundaries of self-defence accurately to ensure it is not misused Mahdi 2024

This section addresses two areas regarding the legal boundaries of self-defence and instances of violation The first examines the conditions for the legality of self-defence according to legal controls while the second covers exceeding these boundaries and how cases exiting the scope of legality are handled Al-Aghbari 2024

The right to self-defence is a core entitlement guaranteed by most legal systems to allow individuals to protect themselves and their property from unlawful aggressions This right encompasses a range of actions permitted by law to counter aggression whether directed at the person themselves their property or others Although self-defence is a legitimate right its practice is not absolute but requires the fulfillment of several legal conditions ensuring its proper use without abuse Al-Najjar et al 2021

First self-defence requires that the danger be imminent and real In other words an individual cannot exercise self-defence in anticipation of a potential danger or one that can be avoided The aggression must be actual threatening the person's life property or any other interest urgently If the danger is non-existent or its potential impact is unreal the individual has no right to resort to self-defence Consequently indirect threats or intangible menaces are insufficient to justify this right Al-Talli 2020

Second it must be impossible for the individual to resort to public authorities or any other means to avert the danger in time In some scenarios a person might have the opportunity to call the police or seek assistance from security agencies opportunely making self-defence unjustified if other means to protect self or property exist In this context self-defence is required to be the final and sole option available meaning that no individual can use force if

the danger could be avoided through alternative methods such as fleeing or seeking help from authorities Al-Faydi and Jamal Al-Din 2021

Third an essential requirement for the legality of self-defence is the complete absence of alternative means to repel the danger meaning self-defence must be the only option available to the person This implies that if other methods exist to prevent the aggression such as speaking with the aggressor or avoiding the situation self-defence is not justified In this scenario using force for defence is considered unjustified and unconditioned by law Self-defence is characterized by necessity and cannot be applied if alternative choices are present Sawan and Ibn Abdul-Muttalib 2022

The fourth and most critical condition for the legality of self-defence is the proportionality between the aggression and the response The law dictates that the defensive act must correspond to the degree of danger faced by the individual Consequently an individual cannot respond to an assault using excessive force or lethal means unless the aggression poses an imminent threat to their life or property If a person faces a threat of minor physical assault they cannot respond using a firearm or violent means that could cause death This represents a disproportionate reaction and is therefore considered exceeding the boundaries of self-defence Hence the importance of proportionality between the scale of aggression and the scale of response becomes evident as defence must be confined to the minimum necessary to repel the assault Bin Sadouk and Winton 2021

Regarding UAE law the UAE legislator established the foundation determining the legality of self-defence in Article 58 of the UAE Penal Code as amended by Law Number 34 of 2005 The article states that no crime is committed if the act is performed in the exercise of the right to self-defence provided that the specified conditions are met This includes the necessity of an imminent danger the unavailability of other means to repel this danger and proportionality between the response and the aggression Based on Article 59 the legislator indicated that self-defence does not permit intentional homicide except in specific instances such as the fear of death or severe injury Article 60 confirms that self-defence is impermissible against members of public authorities during the performance of their duties unless there is an imminent danger that could lead to death or serious injury Olayan and Abu Al-Hassan 2024

#### *Fourth Legal Restrictions on Self-Defence*

The right to self-defence although a legitimate and legally guaranteed right is subject to several legal restrictions ensuring it is not exceeded in practice Legislations have established clear conditions for using this right concerning the time place and circumstances of the assault to ensure justice is achieved and to prevent any abuse of this right which could lead to illegal actions if controls are ignored Al-Aghbari 2024

An important legal restriction regarding self-defence is necessity meaning that this right can only be exercised if the danger faced by the person is real and tangible Although an individual has the right to defend themselves or their property this right is not justified if the danger faced is unreal or highly improbable For instance if a person feels psychologically threatened or imagines a danger that does not actually exist this does not justify using force in self-defence Laws account only for actual aggressions rather than imaginary or intangible threats Sawan and Ibn Abdul-Muttalib 2022

Another legal restriction concerning self-defence is the proportionality between the defence and the aggression. The defensive reaction must match the scale of the assault faced by the individual. If the crime or threat is minor, the person cannot respond using excessive force or means that could end the life of the aggressor. For example, if the assault consists only of an attempt at a minor strike, it is impermissible to respond using a lethal weapon or tools that could cause fatal injuries. The rule here is that the response must remain within the limits of necessity, stopping the danger without causing greater harm than what would have resulted from the aggression. Bin Sadouk and Winton 2021.

Additionally, self-defence requires the complete absence of alternative means to repel the danger. In other words, if an individual can avoid the assault by fleeing, resorting to authorities, or using any other less violent method, they are not permitted to use force as a means of defence. Therefore, resorting to self-defence when less impactful means exist to avoid danger is considered an abuse of the right. For instance, if a person is in danger from another individual carrying a knife and can flee or resort to a safe place, responding with a knife or any other tool is not considered legitimate defence. Al-Talli 2020.

An important restriction placed by legislations in some nations relates to time and place. Self-defence is permitted only at the time and place where the person is actively exposed to direct danger. For example, if a person is attacked in the street and faces a clear danger, they have the right to defend themselves. However, if the individual seeks revenge against the other person at a later time or in a different location from where the assault occurred, this action is not considered self-defence but rather an unjustified assault. Ahmad 2025.

Finally, in UAE law, the legislator stated in Article 58 of the UAE Penal Code that no crime is committed if the act is an exercise of the right to self-defence as long as the conditions specified for this right are present, including that the response is proportionate to the danger and occurs at the appropriate time. Article 59 also confirmed that self-defence does not permit intentional homicide except in specified cases such as the fear of death or serious injury. In Article 60, it was emphasized that self-defence cannot be claimed when resisting members of public authorities during the performance of their duties unless there is a clear danger to life or risk of serious injuries. Al-Faydi and Jamal Al-Din 2021.

#### *Fifth Legal Consequences of Exercising the Right to Legitimate Self-Defence*

The right to legitimate self-defence is a legally guaranteed entitlement that protects individuals from unlawful assaults threatening their lives, property, or other legitimate rights. While this right serves as a lawful mechanism for self-protection, its exercise entails specific legal consequences ranging from exemption from criminal liability when the defence is lawful to legal accountability when the prescribed boundaries are breached. This section examines the legal outcomes affecting the defender, whether favorable or unfavorable, while highlighting the legal liability incurred in instances of exceeding limits. Al-Najjar et al 2021.

First, the exemption from criminal liability is one of the most prominent legal consequences of exercising the right to self-defence when the necessary conditions are satisfied. If the actions taken by the defender fall within the scope of legitimate defence, the law exempts them from criminal liability, even if the actions result in injury or death to the aggressor. An act is considered a lawful defence if the response corresponds to the danger and if the means

employed maintain proportionality with the scale of the assault. Consequently, the right to self-defence provides individuals with legal immunity, ensuring that the person is not held accountable for damages inflicted upon the aggressor while repelling the attack. This legal protection aims to achieve justice and safeguard the fundamental rights of individuals when facing a genuine threat (Kardman, 2024).

However, if an individual exceeds the limits of self-defence or employs excessive force, the legal consequences of the act alter completely. When self-defence is exercised unlawfully, the defender's action is classified as a crime, giving rise to criminal liability. This liability may be aggravated or mitigated depending on the circumstances surrounding the offense. For instance, if a person utilizes a lethal weapon against a minor threat or continues defensive actions after the danger has ceased, this is deemed a violation of the limits of self-defence, exposing the individual to criminal liability. In such scenarios, the act is no longer viewed as a lawful defence but constitutes an infringement upon the rights of others, making the individual subject to legal penalties (Mahdi, 2024).

The legal consequences of exceeding the boundaries of self-defence vary according to the degree of violation and the intent behind the action. In certain cases, the act may be regarded as a violation committed in good faith, particularly if the circumstances prompting the response were ambiguous or if psychological factors led the person to believe they were threatened. In these situations, the judge may grant a mitigating excuse to the defender or reduce the penalty based on the principle of good faith as prescribed by certain legislations. Nevertheless, this excuse does not entirely absolve the individual from criminal liability but can reduce the severity of the penalty or lower the classification of the crime committed. Consequently, judicial discretion remains essential in evaluating the circumstances surrounding the act and its degree of legality (Ahmad, 2025).

On the other hand, criminal liability depends heavily on the proportionality between the aggression and the response. If the defender exceeds the bounds of necessity and their reaction is excessive or exaggerated, the action is deemed unlawful, exposing them to criminal prosecution. The judiciary plays a vital role in these cases by determining whether the contested action constitutes legitimate defence or a violation of its limits. The judge assesses the details of the assault, the method of response, and the circumstances accompanying the incident in each case to evaluate the proportionality of the action and issue a just ruling (Bin Sadouk and Winton, 2021).

UAE law defines the legal consequences of exercising the right to self-defence clearly through the UAE Penal Code. Article 58 of this law establishes that an act does not constitute a crime if it is a lawful defensive action conforming to the specified conditions. Furthermore, Article 59 permits the use of lethal force in specific instances, such as the fear of death or serious injury, but limits this to exceptional circumstances and defined situations. In cases where limits are exceeded, the matter is handled under Article 61, which stipulates that a violation committed in good faith can be considered a mitigating excuse, granting the judge discretionary authority to determine the appropriate penalties based on the intent and the surrounding contexts (Olayan and Abu Al-Hassan, 2024).

Ultimately the right to self-defence is an entitlement that balances the protection of individuals from aggression with the prevention of the abuse of force. Legal frameworks clarify the legal consequences arising from this right starting with the exemption from criminal liability when conditions are met and extending to criminal accountability when the boundaries of self-defence are breached (Al-Aghbari, 2024).

### **Conclusion**

The right to legitimate self-defence constitutes a fundamental entitlement guaranteed by legal systems to individuals confronting unlawful aggressions, reflecting the commitment of these systems to protecting human rights and personal safety. However, as demonstrated throughout this research, the exercise of this right is not absolute but is governed by precise conditions and controls designed to prevent violations or misuse. The legal consequences resulting from the use of self-defence range from exemption from criminal liability when conditions are fulfilled to legal accountability when the established boundaries of defence are exceeded.

This research has examined the circumstances under which the legality of self-defence is recognized, clarifying the determination of proportionality between aggression and response as a core principle governing this right. Conversely, it has discussed instances of violation that may occur through the use of excessive force or the continuation of defensive actions after the danger has subsided, which exposes the individual to legal liability.

Through this comprehensive understanding, it becomes evident that self-defence is a lawful right subject to rigorous regulations to ensure the realization of justice. Consequently, the correct application of this right is vital for maintaining the balance between protecting individuals and ensuring that the rights of others remain unviolated.

### **References**

- Ahmad, T. M. A. (2025). Exceeding the limits in exercising the right to legitimate self-defence. *Journal of Jurisprudential and Legal Research*, (50), 3328–3373.
- Al-Aghbari, A. S. N. (2024). Provisions of private legitimate defence in Islamic jurisprudence and law. *Al-Andalus Journal for Humanities and Social Sciences*, (92), 148–187.
- Al-Faydi, A. F., & Jamal Al-Din, M. H. (2021). The right to legitimate self-defence as a ground for justification for judicial police officers in Libyan law. *Journal of Sharia Research and Studies*, 10(119), 129–158.
- Al-Najjar, M. F. S., Saad, O. K. Y., & Radwan, R. A. M. (2021). *The exercise of a right as a ground for justification: A comparative analytical study in light of legal systems and Islamic jurisprudence provisions* [Unpublished master's thesis]. The Islamic University of Gaza, Gaza.
- Al-Talli, A. M. Q. (2020). The extent of permissibility of the right to legitimate self-defence and its Sharia controls in the Yemeni Crimes and Punishments Law. *Journal of Law*, 9(1), 8–37.
- Bin Sadouk, M., & Winton, M. B. N. (2021). The principle of correlation and proportionality in legitimate defence: A comparative study between Islamic jurisprudence and positive legislation. *Academic Journal for Social and Human Studies*, 13(2), 296–307.

- Khalouati, M. (2024). Legitimate defence in international law between possibility and impossibility: An analytical study with specific projections on the war on Gaza. *Journal of Rights and Human Sciences*, 17(1), 155–178.
- Kardman, A. S. S. (2024). The right to legitimate self-defence from a Sharia and regulatory perspective. *Journal of the Faculty of Islamic and Arabic Studies for Girls in Alexandria*, (40, Issue 2), 1913–1955.
- Mahdi, A. N. A. (2024). Exceeding the limits of legitimate self-defence. *Journal of the Iraqi University*, (69, Part 1), 206–215.
- Marzouqi, A., & Rihani, A. (2022). Legitimate defence against acts of aggression within the framework of international law. *Journal of Judicial Ijtihad*, 14(1), 249–262.
- Olayan, G. F., & Abu Al-Hassan, S. M. (2024). The legal effect resulting from exceeding the right to legitimate self-defence: A comparative study. *Istiqlal University Research Journal*, 9(2), 27–50.
- Saeed, A. A. M. (2022). Legitimate defence between the United Nations Charter and the Rome Statute of the International Criminal Court: A comparative study. *International Journal of Comparative Legal and Jurisprudential Studies*, 3(2), 110–122.
- Sawan, O. I. A., & Ibn Abdul-Muttalib, L. (2022). The legality of the use of force between states according to the Islamic perspective: Landmarks and controls. *Journal of Sharia Research and Studies*, 10(127), 33–42.