

that the basic right to survival and security must be ensured *in all circumstances*.

As the authors themselves indeed recognize, it is no easy task to define the exact boundaries between traditional humanitarian law, expanded humanitarian law and human rights law. However, the three systems do contain basic humanitarian principles which are common to them all and it would be interesting to set them down in the form of a declaration or statement of guiding principles.

Lastly, an attempt should be made to harmonize the provisions of these various legal systems and to ensure that they are applied simultaneously. To this end, the authors recommend several things that could be done:

1. study the legal instruments belonging to traditional humanitarian law, human rights instruments and humanitarian law in a broad sense and make efforts to eliminate contradictions;
2. study measures to implement each of the three systems so as to avoid duplication and make them applicable simultaneously to all situations;
3. elaborate additional rules, where necessary, to specify, by developing the law appropriately, the duties corresponding to each of these rights, these duties falling on the authorities, the organizations concerned and individuals;
4. develop and reinforce collaboration of the institutions concerned in the application of international instruments;
5. introduce an obligatory system for disseminating humanitarian rules, as it exists for international humanitarian law applicable in armed conflicts, and to intensify promotion measures through teaching and training;
6. include in this action intergovernmental — and in particular non-governmental — organizations which are concerned with humanitarian problems.

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## COUNTER-MEASURES IN PUBLIC INTERNATIONAL LAW

Dr. Zouhair Al-Hassani's work on counter-measures in public international law\* is innovative both in subject and content. It is also, to our knowledge, unique among Arab legal works. In addition to the introduction and conclu-

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\* Zouhair Al-Hassani, *Counter-measures in public international law*, University of Garyounes, Damascus, 1988, 229 pp. (in Arabic).

sion, it comprises two parts. The introduction discusses the purpose of the study, defines various concepts in relation to the subject and provides a general outline. The first part contains an analysis of counter-measures in accordance with the "general rules of public international law in the context of decentralized international relations" and the second part discusses "counter-measures provided by the United Nations in the area of international relations".

As indicated in the title, the concept of counter-measures is closely linked with the issue of international responsibility, an issue which the International Law Commission has been studying for several decades with a view to drafting a convention. The Commission is not alone in taking an interest in international responsibility, since this has long been the subject of in-depth studies by numerous experts in the field of international law. Dr. Al-Hassani's work constitutes a noteworthy contribution to this effort and fills a considerable lacuna in Arab legal texts. In particular, it discusses the work of the International Law Commission and reviews the decisions of international law relating to counter-measures, and the practice of States and of the United Nations with respect to these measures.

The author also examines other types of measures taken in response to violations of international obligations, with particular reference to "one aspect of the legal consequences to which breaches of international law give rise, but which do not entail international responsibility", and thereby sheds considerable light on the meaning and purpose of the counter-measures themselves.

Dr. Al-Hassani goes on to define counter-measures as "the measures that apply in the event of non-compliance by a State with its international obligations towards another State". These are peaceful measures, which serve two purposes. First of all, they fill a gap created by the lack of an international judicial authority and act as sanctions against those who act illegally. Secondly, they aim to obtain satisfaction from the party that has failed to fulfil its basic obligations. Counter-measures may be exercised individually (for example, a State may suspend its delivery of food or weapons to a State that has failed to fulfil its international obligations, or freeze that State's assets within its own territory) or collectively (in application of a decision taken by a group of States or an international organization, for example to impose a boycott, suspend trade relations or cancel programmes for the transfer of technology).

However, although a number of parties (the plaintiff or defendant, the UN General Assembly or Security Council, regional organizations) have the right to exercise counter-measures, the actual ability of States to do so varies and it is consequently often difficult to obtain tangible results.

In addition to discussing the work of the International Law Commission and various legal points and decisions, the author proposes that the Statute of the International Court of Justice be revised to include a legal basis, as defined by treaty law, for the punishment of offences against international law. He also proposes that a penal chamber, whose jurisdiction would be limited to penal offences, be formed within the Court.

However, these proposals appear somewhat unrealistic in view of the current world situation, on the one hand, and the very nature of international law, on the other hand.

The author also mentions the emergence of “*sui generis* counter-measures” exercised by States or their bodies, whatever their importance or interests, and sometimes even by other groups or individuals. Such “measures”, which have no basis in international law and exceed its scope, are clearly unlawful.

Dr. Al-Hassani also makes frequent mention of armed conflicts and recourse to force and discusses, in this context, the possible application of counter-measures as regards the belligerents themselves or third parties, or in the event of occupation. In this connection, he points out the relevant provisions of the Fourth Geneva Convention and Additional Protocol I of 1977.

An updated version of this excellent work would be most welcome, especially if it took into account various aspects of the recent Gulf war, such as the relevant Security Council resolutions and the many implications of the conflict.

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