

superficial treatment, and ultimately negative assessment, of 1977 Additional Protocol II (on non-international armed conflict). Has Best been deserted by his sense of political and historical perspective when he judges a text to be unsatisfactory merely because it lays down too few specific rules? In Protocol II, has not political pressure brought into being a humanitarian treaty adopted by consensus and which, precisely because of its simplicity, has some chance of being complied with by the parties to civil war?

Geoffrey Best's new book gives much food for thought to anyone interested in humanitarian law. It is well worth reading.

*Hans-Peter Gasser*

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### THE GULF CRISIS

*From prohibition of the use of force  
to its authorization\**

Mr Sayegh's work is based on the thesis that he wrote for his doctorate in law soon after the second Gulf War. It was devoted not to the "war" but to "crisis" — something that may seem surprising to jurists unaccustomed to considering such concepts. The author has nevertheless done justice to his subject, aided by his knowledge of Arabic, French and English, as can be seen from the bibliography and the list of sources consulted. The study is intended to "help explore the development of the use of force and the changes that this has brought about in the United Nations system" (p. 26).

The chronology placed in the early pages of the study (pp. 16-19), even before the introduction, shows us the orientation of the author's research, which is confined to the "crisis" that lasted from 2 August 1990 (date of the invasion of Kuwait) to 16/17 January 1991 (beginning of the war against Iraq).

As we know, this was a period of unprecedented activity on the part of the United Nations Security Council, which adopted a series of resolutions, the first (resolution 660 of 2 August 1990) condemning the invasion and the last (resolution 678 of 29 November 1990) authorizing the use of "all necessary means" to implement the previous resolutions.

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\* Selim Sayegh, *La crise du Golfe: De l'interdiction à l'autorisation du recours à la force*, Librairie Générale de Droit et de Jurisprudence, Paris, 1993, 544 pp.

To explain and analyse the "crisis" as a whole, Mr Sayegh looks at the history of the complex relations between Iraq and Kuwait, identifying the regional and international considerations involved. The first part of the book (pp. 31-275) sets out the basic elements of this history, going back to the 18th century and thus enabling the reader to measure the full significance of the August 1990 invasion, the various reactions which it triggered and the main arguments put forward by Iraq to justify its action against Kuwait (historic rights, economic aggression and assistance to a newly installed and friendly Kuwaiti government). According to the author, these arguments have no legal basis. Since the way the crisis developed cannot be explained by legal considerations alone, other factors must be cited to help the observer understand the reactions of Washington and London in particular, whose economic, political and strategic interests in the Gulf were affected and who immediately acted on the basis of their alliances, in addition to the action taken within the United Nations system. Despite the differences that exist between the former type of action and the latter, the two can be reconciled under Chapter VIII of the Charter itself.

The author divides the crisis into three stages: the first marked by resolution 660, the second by resolutions 661, 665, 666, 667 and 670 and the third by resolution 678. Despite a certain "conciliatory dimension" in resolution 660, the escalation option prevailed, beginning with economic coercion (resolution 661 of 6 August decreeing the embargo) before proceeding to military coercion (resolution 665 of 25 August authorizing the blockade and particularly the above-mentioned resolution 678).

These two forms of coercion are examined in the second part of the study, entitled "The developing crisis -- gradual legalization". The author analyses resolutions 661, 665 and 678, but also considers other texts, such as Articles 42 and 51 of the United Nations Charter and Security Council resolutions 664, 667 and 674. In noting certain similarities between resolutions 665 and 678, Mr Sayegh observes that by adopting the latter text, "the Security Council gradually relinquished its essential role of maintaining peace and security, by delegating its authority to States" (p. 492) and by giving the coalition "an unlimited mandate to implement resolution 660 and the subsequent resolutions" (p. 496). This is the inevitable consequence of the fusion between the centralized reaction as expressed by the Security Council and the decentralized reaction orchestrated by Washington. Given the author's decision to confine his study to the "crisis", the book ends with an interesting chapter on resolution 678 (pp. 475-502), in which he states that in authorizing the use of force the Security Council acted on the basis of neither Chapter VIII nor Articles 42 *et seq.* of the Charter. Moreover, resolution 678 goes beyond Article 51 on the right of self-defence, and the resulting situation is one of "self-help with support from one's allies", rather than of "self-defence with support from one's allies", a fact which casts doubt on its legitimacy under international law (p. 500). The political consequences of that resolution are examined briefly, and the author concludes by broaching issues connected with the dialectic between law and force, as well as other questions

both retrospective (end of the Cold War and its implications) and prospective (relations between Iraq and Kuwait).

It is nevertheless regrettable that the concept of "crisis", despite the fact that it draws on other disciplines such as history and political science and thereby enriches the work, has restricted the author to the area of *jus ad bellum* and has even led him to assert that resolution 678 also implied a kind of "frozen *jus in bello*" (p. 501). For under international law this "crisis" is the continuation of an international armed conflict which broke out on 2 August 1990 and made applicable the relevant provisions of *jus in bello*. From that date onward, the human consequences of the conflict were immense in Kuwait and Iraq and even elsewhere (the plight of the civilian population, internees, prisoners of war, foreign nationals, damage to property, effects of the embargo and the blockade, etc.).

Nevertheless, the abundant and very useful information provided, the analysis of the role of the Security Council and of some of its relevant resolutions, and the detailed account of the positions of the main protagonists in the "crisis" are presented with clarity and precision, and this makes Mr Sayegh's work a valuable tool for those interested in studying this major conflict, the implications of which will mark international relations for a long time to come, going far beyond the regional context or that of relations between two neighbouring Arab States.

Ameur Zemmalı

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DÉRIVES HUMANITAIRES:  
ÉTATS D'URGENCE ET DROIT D'INGÉRENCE

*Humanitarian Action off Course:  
States of Emergency and the Right to Intervene*

Now that the UNOSOM II troops have withdrawn from Somalia — amid quite harsh criticism from the press — the work *Dérives humanitaires: états d'urgence et droit d'ingérence*<sup>1</sup> is even more highly recommended owing to the clarity of its structure and arguments.

Published as the first issue of *Nouveaux Cahiers de l'IUED* by the Graduate Institute of Development Studies in Geneva, this book of approximately

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<sup>1</sup> *Dérives humanitaires: états d'urgence et droit d'ingérence* (Humanitarian Action off Course: States of Emergency and the Right to Intervene), ed. Marie-Dominique Perrot, Institut Universitaire d'Etudes du développement, Geneva (Paris: PUF), April 1994, 163 pp. (in French only).