

thought-provoking as it is, is really a piece on history and philosophy of law rather than an attempt to find evidence for the existence of international legal principles supported by the author; it focuses upon the moral criteria, as elaborated upon by legal theorists and national courts, which could render legitimate some illegal uses of force. However, the very use of such an approach, notably in the case of 'humanitarian' intervention, seems to be an implicit acceptance by scholars that many claimed titles of the use of force are not really supported by international law. The reference by the author to 'grey areas' between legality and legitimacy seems to be a further confirmation of this.

The monograph does not examine the character of the prohibition of the use of force as a peremptory norm (*jus cogens*), which is not even mentioned in the index appended to the book, and hence neglects its impact. If the peremptory nature of this prohibition were accepted, one could suggest that certain conclusions reached by the author are not justified. For instance, the author focuses upon the concepts of countermeasures and self-help, as well as exculpatory factors arguably permitting states to use force in vindication of a preceding wrong or for humanitarian purposes. But the author does not suggest where exactly these situations should be placed in the context of general international law, particularly the state responsibility. It seems to be established, due to the recently accomplished codification of state responsibility by the UN International Law Commission, that countermeasures may not be forcible or offend against *jus cogens*. It is also clear that circumstances precluding wrongfulness are not invocable to justify the conduct of a state offending against *jus cogens*. Furthermore, *jus cogens* seems to be relevant in terms of relevance of state practice in specific cases and there seems to be every reason to suggest that *jus ad bellum*, as part of *jus cogens*, shall be applied integrally, that is uniformly, in all circumstances, and state practice, diverse as it is, cannot influence its content.

In general, Professor Franck's monograph is an interesting description of law and practice, also encompassing the political attitudes of different states, including great powers or superpowers, both during and after the Cold War. In this respect the monograph could be interesting not only for lawyers but also for students of geopolitics and international relations. From the legal point of view, the monograph accumulates large analysis of precedents and in this sense it could offer an interesting source to those who wish to become familiar with a quite original view relating to the law of the use of force.

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*The Law of the Sea and Polar Maritime Delimitation and Jurisdiction*. Edited by Alex G Oude Elferink and Donald R Rothwell. Publications on Ocean Development, Vol 37. [The Hague; Kluwer Law International, 2001. 416 pp. ISBN 90-411-1648-6]

The polar regions are distinguished from other regions of the earth by their extreme climatic conditions, cold and ice. They may, however, be distinguished from each other in many ways. The Antarctic consists mainly of land. The Arctic on the other hand is to a large extent frozen sea ringed around with archipelagos and the northern extremes of territories which pierce the Arctic meridian. Whereas the Arctic is subject to claims of sovereignty, albeit based at times on the contentious sector theory, the Antarctic has,

for over 40 years, deferred such claims by the novel Antarctic Treaty System. This prevents any activities in the area constituting a basis for asserting, supporting or denying any claim to territorial sovereignty and forbids any new claims or enlargement of any existing claims. Even the sector principle dispute which, it may be argued, provides a link between the two polar regions has been put on hold by the 1959 Antarctic Treaty.

The present volume of the *Publications on Ocean Development* consists of seventeen chapters contributed in most cases by some of the major writers and researchers in this field and seeks to explore two central questions: first, to what extent do the applicable rules and practices being discussed in a polar context differ from those in other regions? Secondly, what impact, if any, has the entry into force of the 1982 United Nations Convention on the Law of the Sea in 1994 had on polar state practice on the Law of the Sea? The first of these questions can scarcely be answered because the differences of the polar regions do not point to common practices. The question of ice, of course, is all-prevailing and its effect on the establishment of stable baselines is important in the Arctic region because of navigation and particularly the Northern Sea Route and eastward access from Alaska. In Antarctica the instability of baselines dependent on ice shelves has bearings on the claims to continental shelves and EEZs matters which, on the whole, one would expect to be subject to the Antarctic Treaty System and its associated environmental treaties. The format adopted by the editors of treating the two polar regions consecutively throughout the work becomes irritating when it becomes apparent that overall the problems facing the two regions are in most cases distinguishable.

The essays cover areas of baselines, maritime claims, the outer continental shelf, delimitation, environmental protection, navigation, and fisheries. Many of the chapters are interesting and informative but the nature of the exercise has led to some repetition, on the one hand, and on the other, to an over-obvious intention not to trespass into the fields of the other distinguished experts.

In each of the essays we are alerted to, or are expected to be aware of the impact of the 1982 Law of the Sea Convention—the second pillar of the enquiry. One is tempted to come away with the impression that the Convention has had minimal effect on practice in the area—as polar regions. Article 234, which appears to be of relevance mainly, if not only, in the Arctic was initiated by Canada and gives legal propriety and acceptance to its Arctic Waters Pollution Prevention Act, 1970. Otherwise there seem to have been concerted efforts on the part of states with polar interests to prevent discussion of ice-covered areas throughout UNCLOS III. Undoubtedly the development of law of the sea contained in and further inspired by the 1982 Convention will have an impact upon states' claims to jurisdiction over maritime areas and as such will be the basis of the legal arguments should any disputes arise over polar regions. Despite the interesting and learned contributions which the volume contains, the success of the Antarctic Treaty System and the recognition of the delimitation and environmental issues in the Arctic, together with the all-prevailing imponderability of ice, make discussion of these matters in the context of answering both central questions virtually futile.

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