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The conflict with Islamic State : a critical review of international legal issues / Antonio Coco and Jean-Baptiste Maillart

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Abstract:	<p>This chapter has two main functions. First, it provides an assessment of the legality of the U.S.-led missions against the Islamic State (IS) in Iraq and Syria. In Iraq, the intervention is found to be compatible with international law based on the intervention by invitation principle. In Syria, legality of the mission is doubtful, as the authors suggest the collective self-defence rationale is unconvincing and the intervention by invitation justification has been undermined by the actions of the U.S. and Syria. Second, the chapter discusses State responsibility for IS actions. The authors hold that it is unlikely that direct responsibility for violations of international law by IS would be attributed to Syria or Iraq, as both States are engaged in combat to defeat IS. However, the failure on the part of both States to take measures to protect people in their territory under IS's effective control could lead to their responsibility being engaged. Furthermore, direct responsibility is unlikely to be borne by third States, as their provision of external assistance to IS does not result in effective control or decisive influence over IS. Instead, third States could be found to be in violation of their international obligation to ensure respect for international humanitarian law under Article 1 common to the 1949 Geneva Conventions or to prevent and punish genocide under Article 1 of the Genocide Convention. [Summary by students at the University of Toronto, Faculty of Law (IHRP)]</p>
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