

Synopsis

Contrasting the conclusions of Part I and Part II, it becomes clear that Chapter XI can shift the legal paradigm for military occupations. This paradigm shift away from traditional occupation law is warranted.⁷⁸⁷ The economic leeway that the occupant enjoyed under occupation law is removed by Chapter XI and replaced with the interests of the inhabitants.⁷⁸⁸ While occupation law created an economic incentive to stay in foreign territory by force, Chapter XI not only eliminates this incentive, but deters occupation. Under Chapter XI, States are still allowed to defend themselves militarily, but they must not use foreign territory economically.⁷⁸⁹ Chapter XI could thus end not only historic colonialism, but all forcible stay in foreign territory.

787 'Various conflicting interpretations have arisen, hindering the quest for a coherent approach to occupation law. Citing these central provisions, occupying powers have often justified a very large scope of authority over occupied territories. In other cases, foreign administrators have invoked the obligation to respect local laws in order to minimize their authority and evade their responsibilities under occupation law. This situation is unsatisfactory and work has to be done in this regard to avoid discrepancies in the interpretation and implementation of the law in contemporary contexts of occupation' (Tristan Ferraro (ed), ICRC Expert Meeting Report: Occupation and Other Forms of Administration of Foreign Territory (International Committee of the Red Cross 2012) 54).

788 8.1.1 Priority over Occupation Law, 157ff.

789 8.4 Reconciliation with the Munitions of War Rule, 166ff.

