Buchbesprechungen

***Green, James A.*: Collective Self-Defence in International Law.** Cambridge Studies in International and Comparative Law, Cambridge UK: Cambridge University Press 2024. ISBN 978-1-009-40638-3 (hardback). xix, 355 pp. £110.00

Unlike its essential elements – such as the existence of an armed attack or the requirements of necessity and proportionality – the specifically collective dimension of self-defense is generally rarely discussed in international law. Drawing on the *Nicaragua* case, in which the International Court of Justice rejected the argument, legal scholarship generally limits itself to referring to the condition that the attacked State must appeal to the defending state, without further investigating the contours or limits of such a condition. In this book, based on in-depth research and written in barely a year (thanks to the steady rhythm provided by the British metalcore band Ithaca, duly celebrated in the acknowledgements), James Green has managed to offer us 'the most detailed and extensive account of collective self-defence to date, at a time when it is being invoked in state practice more often than ever before' (p. 8).

To fully grasp its significance, four points deserve clarification.

First, the author relies on a traditional, positivist legal methodology (pp. 9 ff.). This involves relying on the relevant legal texts (and primarily Article 51 of the Charter), as interpreted by the International Court of Justice, and to carefully analyse practice in order to identify the meaning of the existing legal rule. This restrictive approach is coupled with a critical tone, as James Green warns against the potential biases of an overly Western-centric reading of the issue (linked, in particular, to language). From this perspective, the book should be understood as a contribution that is as objective as possible to the establishment of positive international law, which sets it apart from other research (often, but not exclusively, conducted in the United States) that adopts a policy-oriented perspective leading to reflections that often go beyond the strict framework of the *lex lata*.

Second, the book offers a wealth of information on the history of collective self-defence, from its distant origins (Chapter 2) to the hundreds of collective security treaties that are cited and interpreted (see especially Chapter 7). This analytical approach also leads James Green to make some important conceptual clarifications. Preferring the French and Spanish versions (which could be translated into English as 'legitimate defence') to the English version ('self-defence') of Article 51, he notes that collective self-defence does not require that States invoking the argument demonstrate that they them-

https://doi.org/10.17104/0044-2348-2026-2-711 https://www.inlibra.com/de/page/agb - Open Access - (cc) BY-SA

selves are the targets of the initial armed attack, nor even that they are directly affected. In another particularly important section of his book (Chapter 8), James Green highlights the similarities and differences between the arguments for collective self-defence and intervention on invitation. In the first case (which constitutes an exception to the prohibition on the use of force), the State providing support is authorised to target the State responsible for the armed attack, including on its own territory. In the second case (which can be likened to military cooperation, which simply cannot be equated with the use of force between States – the only such use prohibited by Article 2(4) of the Charter), the intervening State does not direct its action against any third State, but against non-State actor(s), with all operations taking place solely on the territory of the inviting State. This difference in principle becomes blurred in practice, however, particularly when States invite others to prevent an armed attack of which they might be the victims (such as Jordan or Lebanon in 1958, vis-à-vis the United Arab Republic, or Saudi Arabia in 1990, vis-à-vis Iraq). In such cases, one is undoubtedly dealing less with the actual exercise of collective self-defence than with preparatory acts, temporarily limited to the territory of the threatened State.

Third, the book revisits debates that are not specific to collective self-defence but rather relate more generally to the intense controversies surrounding the interpretation of Article 51 of the Charter (Chapter 3). Whether the issue is anticipatory self-defence (especially in cases of an 'imminent threat') or self-defence directed against non-State actors, James Green takes a particularly cautious stance. Noting a tendency in practice to tolerate these two arguments, he refuses to infer from this a clear acceptance by the international community of States as a whole. It thus seems that the *lex lata* remains, for the time being, unchanged, even if recent practice 'gives an indication as to how the law may be developing' (p. 121; see also pp. 314-315).

Finally, and in a more original vein, the book focuses on issues specific to the collective dimension of self-defence. James Green thus emphasises the requirement that the attacked State must remain the sole decision-maker regarding whether – and to what extent – it wishes to receive external military support. Contrary to what the International Court of Justice suggested in the *Nicaragua* case, this request is a sufficient condition; it need not be preceded by a formal 'declaration' in which the victim State explicitly asserts that it has been the object of armed attack. Practice reveals considerable diversity in this regard, as such a declaration is in fact rarely issued. Similarly, the request itself need not take any particular form: it may be made publicly and explicitly, but also implicitly or even indirectly. The key point is to preserve the discretion of the requesting State, which does not require any formalities.

 DOI 10.17104/0044-2348-2026-2-711

https://doi.org/10.17104/0044-2348-2026-2-711 https://www.inlibra.com/de/page/agb - Open Access - (cc) BY-SA

However, such a request must always be made by the *de jure* government of an internationally recognised State. This explains the particularly broad rejection of Russia's argument, which, on February 24, 2022, claimed to be acting in collective self-defence on behalf of two 'republics' (Donetsk and Louhansk) unilaterally recognised as States three days earlier.

In short, James Green's book is rich in content and offers an insightful exploration of various aspects of the subject, which he has addressed with great rigor. As far as the author of this review is concerned, this reflection has taken the form of three points, which are briefly outlined below.

First, despite the methodological rigor that characterises this book, certain assertions may seem to be made somewhat hastily. This is particularly evident in the following passage: 'it is worth noting that it is now the case that the majority view among states and scholars is that self-defence action against a demonstrably imminent armed attack is lawful' (pp. 112-113). Admittedly, the author immediately adds that 'this is not an uncontroversial conclusion', and, as noted, he refuses to infer from this a recognition, in positive law, of such a possibility. The fact remains that his assertion, which is supported only by a footnote citing a single author, is scarcely substantiated. And if one examines the positions of the States, it seems very difficult to identify a majority in favour of relaxing the condition explicitly set forth in Article 51 of the Charter, namely the actual existence of an armed attack. The debates that took place in 2005, on the occasion of the 60th anniversary of the United Nations, are illuminating in this regard. While the high-level panel established by the then Secretary-General had argued in favour of self-defence in the event of an imminent threat, and the Secretary-General's own report endorsed this possibility, it was clearly rejected by a majority of States. The Non-Aligned Movement, in particular, has come out very clearly against any rewriting or new interpretation of Article 51 of the Charter.[1] This episode therefore seems to indicate that a strict and restrictive interpretation of this provision persists among a majority of United Nations members. As for legal doctrine, it is even more difficult to make a quantitative assessment, distinguishing between a majority and a minority trend. Some texts, authored by numerous international law scholars from various regions, advocate for an orthodox interpretation, while others (authored by a small number of scholars, primarily from Anglo-Saxon countries) support the opposite position.[2] In his book, James Green is careful not to engage in such research. One cannot fault him for this, since we are here at the heart of debates that do not

1 Oliver Corten, *The Law Against War* (2nd edn, Hart 2021), chapter 7 and documents quoted.

2 Corten (n. 1), chapter 1.

https://doi.org/10.17104/0044-2348-2026-2-711 https://www.inlibra.com/de/page/agb - Open Access - (cc) BY-SA

specifically address the collective dimension of self-defence. On the other hand, it might have been more prudent not to assert, without real justification, that one position or the other (especially when it is so controversial) was held by the majority. Perhaps this shift can be explained by the persistence of the Anglo-Saxon bias, about which, as we have seen, James Green had expressed certain reservations. The fact that the entire work draws exclusively on English-language literature probably provides an indication of this.

Second, we should pause for a moment to consider the importance of practice in the line of reasoning that runs throughout the book. This approach is perfectly understandable from the stated perspective of a positivist methodology, which seeks to identify the *opinio juris* of States. Less understandable, however, is the limited attention given to certain texts adopted by all members of the United Nations, such as the definition of aggression annexed to United Nations General Assembly Resolution 3314 (XXIX) and incorporated into the Statute of the International Criminal Court. In the section devoted to self-defence against non-State actors, in particular, one would have expected a quotation and detailed analysis of Articles 1 (which restricts aggression to the use of force by one State against another) and 3(g) (which specifically addresses the possibility of targeting a State that uses a private armed group against another). Perhaps taking these texts into account – which, as the author acknowledges, serve as central references in existing case law – might have helped overcome the sense of instability and uncertainty that emerges from current practice. Here again, however, it should be noted that this debate does not specifically address the collective dimension of self-defence. Perhaps, after all, this book should have avoided revisiting such fundamental debates, in which it is very difficult to take a position without engaging in in-depth analysis.

Third, and this time throughout the entire book, one is sometimes left sceptical about the classification of certain precedents. The characterisation of the Soviet Union's interventions in Hungary (1956) or Czechoslovakia (1968) as cases of collective self-defence, for example, does not seem self-evident. During these interventions, Soviet troops did not target (nor did they enter the territory of) any third State. Rather, one gets the impression that this is a case of intervention by invitation rather than self-defence, if one applies the criteria for differentiation mentioned above. It is, in fact, primarily on this point that these interventions have been rightly criticised within the United Nations, as 'consent' was clearly not given by the competent authorities prior to the intervention.[3] Other precedents also sometimes raise ques-

3 Corten (n. 1), chapter 5.

 DOI 10.17104/0044-2348-2026-2-711

https://doi.org/10.17104/0044-2348-2026-2-711 https://www.inlibra.com/de/page/agb - Open Access - (cc) BY-SA

tions about how they should be classified, such as the military actions against ISIS beginning in 2014. It is true that most Western states invoked collective self-defence to protect Iraq. However, the letter initially sent by Iraq to the Security Council – and on which its allies relied – mentions neither Article 51 of the Charter, nor self-defence, nor even the term 'armed attack'.[4] Another possibility would therefore be to consider that Iraq invited other States to act on its own territory, without ever claiming to call for military intervention on neighbouring Syrian territory. One could certainly challenge this interpretation by referring to the terms of the letter (as well as the one sent a few months later, which likewise makes no mention of Article 51 of the Charter),[5] but this point might have warranted some commentary.

These reflections demonstrate just how much James Green's book sparks debate, thanks to rigorous research and a clear, straightforward presentation. It is therefore safe to say that the author has achieved his goal: collective self-defence can no longer be studied without referring to this work.

Olivier Corten, Université libre de Bruxelles, Brussels, Belgium

4 UN Doc S/2014/440, 25 June 2014.
5 UN Doc S/2014/691, 22 September 2024.

https://doi.org/10.17104/0044-2348-2026-2-711 https://www.inlibra.com/de/page/agb - Open Access - (cc) BY-SA