‘Marco Longobardo’s book demonstrates that while many of the post-WWII occupations are contested between the states involved, the *jus ad bellum* and self-defence, international humanitarian law and human rights law provide generally binding rules for the use of force. A particular strength of this book is thorough analysis of conventional law, custom, and jurisprudence combined with a sound assessment of the differences between law enforcement and the conduct of hostilities.’

*Dieter Fleck*, former Director of International Agreements and Policy of the German Ministry of Defence, Member of the Advisory Board of the Amsterdam Center for International Law

‘The law governing occupation may seem to be ‘a sort of relic of another time’, to borrow Dr Longobardo’s words, but despite the evolution of international law it unfortunately still remains relevant. In a sense, this is the ultimate protection of human rights, where the occupying state must ensure rights and freedoms not of its own population but in a place where its presence, if legitimate at all, can only be temporary. Dr Longobardo’s fine analysis of the use of armed force, especially through the lens of the human right to life, is a masterful scholarly contribution.’

*William A. Schabas*, Professor of International Law, Middlesex University, and Professor of International Criminal Law and Human Rights, Leiden University
THE USE OF ARMED FORCE IN OCCUPIED TERRITORY

This book explores the international law framework governing the use of armed force in occupied territory through a rigorous analysis of the interplay between *jus ad bellum*, international humanitarian law, and international human rights law. Through an examination of state practice and *opinio juris*, treaty provisions, and relevant international and domestic case law, this book offers the first comprehensive study on this topic. This book will be relevant to scholars, practitioners, legal advisors, and students across a range of sub-disciplines of international law, as well as in peace and conflict studies, international relations, and political science. This study is intended to influence the way in which states use armed force in occupied territory, offering guidance and support in litigations before domestic and international courts and tribunals.

Marco Longobardo is a Research Fellow in Public International Law at the University of Westminster, where he also teaches public international law, international human rights law, and other related subjects. He undertook his doctoral studies at the Sapienza University of Rome and previously lectured at the University of Messina. He has published extensively on public international law in international peer-reviewed journals such as the *Journal of International Criminal Justice*, the *Heidelberg Journal of International Law*, and the *Netherlands International Law Review*. 
The Use of Armed Force in Occupied Territory

MARCO LONGOBARDO
University of Westminster
Contents

Foreword
Professor Eyal Benvenisti  page xi

Acknowledgements  xiii
List of Abbreviations  xvii
Table of Cases  xxi

1 Scope of the Book  1

2 The Hostile Character of Occupation as Reflected by the Law of Occupation  20

3 The Applicability of Jus ad Bellum and Self-Defence to the Use of Armed Force in Occupied Territory  88

4 Armed Resistance against the Occupying Power in International Law  134

5 Law Enforcement and Conduct of Hostilities in Occupied Territory  165

6 The Regulation of the Use of Armed Force in Occupied Territory in Light of the Right to Life  241

7 General Conclusions  270

Select Bibliography  277
Index  315

© in this web service Cambridge University Press  www.cambridge.org
Foreword

From the beginning, questions relating to the regulation of resistance against occupation have challenged the international law of occupation. Indeed, efforts to codify the law during the nineteenth century reached an impasse on the question of the right to resist an occupation, and codification was ultimately salvaged only by the Martens Clause, which was introduced to finesse the debate. But despite the centrality and ubiquity of the various legal issues related to the use of force in occupied territory, and the lack of scholarly agreement on key matters, academic efforts to clarify them remained scant.

Dr Marco Longobardo should therefore be praised for taking up the challenge of addressing the relevant questions in a thorough, uncompromising, and impartial way. His impressive study offers a comprehensive treatment of the various questions related to the legal regulation of the use of force in occupied territories. He combines careful study of state practice from the inception of the concept of occupation until our time together with a sensitive treatment of various legal sources, and above all, with an in-depth understanding of the unique nature of the role and powers of the occupying power under international law. Longobardo shows the ways in which the law of occupation, together with other rules of international law, has offered over time a highly sophisticated framework that has regulated and continues to regulate the use of armed force by the various actors in occupied territory.

Scholarly and diplomatic debates about the questions covered in this book will surely continue, given the conflicting positions of occupiers, occupied, and third parties, but Longobardo’s comprehensive study, insightful analyses and important suggestions will no doubt influence these debates and hopefully resolve some of the outstanding disagreements.

Professor Eyal Benvenisti
Whewell Professor of International Law
University of Cambridge

© in this web service Cambridge University Press