

Received 28/06/2022

Accepted 19/07/2022

*Basis of International Intervention to fight Terrorism in IRAQ  
and SYRIA from a Western Point of View  
-A critical Study-*

*Abdelhakim Alayat\***Chouireb Djilali*

*Laboratory of Law and Political Sciences University of Laghouat  
University of Laghouat*

[a.alayat@lagh-univ.dz](mailto:a.alayat@lagh-univ.dz)[Djelloulchouireb1979@gmail.com](mailto:Djelloulchouireb1979@gmail.com)

**Abstract**

During 2014, the upsurge of terrorism in Iraq and Syria posed a threat to the very survival of the Iraqi state. At the behest of the Iraqi authorities, France intervened militarily in Iraq by the beginning of September 2014. In the meantime, other states, such as the United States, followed suit in Iraq. USA also intervened in Syria, though this country hadn't requested this option. The intervention in Syria started from September 2015, on the basis of collective self-defense of Iraq. Following the failed attacks in Paris on November 13<sup>th</sup>, 2015, which were considered as an aggressive act, France also invoked the right of individual self-defense as a pretext to intervene in Syria. On April 14, 2018, France and its British and American allies carried out airstrikes on military targets in Syria, claiming that the latter had used chemical weapons in Douma city, without providing proof.

**KEYWORDS:** The Basis, International, Terrorist, Western Perspective.

*\*author expediter*

## **1. Introduction**

In this article I attempt to provide an overview of the legal ground according to which the Westerners, France and the United States justified and led an international intervention against terrorism<sup>1</sup> that gradually extended its grip on the Syrian territory in the context of civil war that this country was witnessing since 2011. This phenomenon stemming from Iraq after the rise of AL-Qaeda and its DAESH branch the creation of which goes back to 2006 has experienced a rapid growth.

On June 29<sup>th</sup>, 2014, while it had seized the cities of Mosul, Fallujah, in Iraq, and Raqqa in Syria, and several areas across Turkey's borders, ended by proclaiming the re-establishment of an Islamic caliphate.

The rapid advance of terrorism threatened the survival of the Iraqi state, urged it to request assistance bilaterally and through an appeal to the international community. This was formulated in two letters, dated June 25 and September 20, 2014, addressed respectively to the General Secretary and the Security Council of the United Nations<sup>2</sup> On August 15<sup>th</sup>, 2014, in its 2170 resolution, adopted unanimously in line with Chapter 7 of the Charter. The Security Council considered terrorist actions as a threat to the international peace and security and took several measures, meant basically to curb the flow of human and financial resources feeding the war effort of terrorism.

The call for help from the Iraqi authorities has also led several states to intervene militarily to contain the terrorist attack. On April 14, 2018, France carried out along with the United States and the United Kingdom, strikes on targeted military objectives in Syria, in reaction to the use of other chemicals in Douma by the Syrian regime a week previously

This series of interventions, is the justification provided by the intervening countries accordingly with the international legitimacy and the Charter of the United Nations?

## **2. The international intervention in Iraq at the request of the Iraqi authorities:**

In their previous letter dated June 25<sup>th</sup>, 2014, the Iraqi authorities called for urgent assistance from the international community, through signing bilateral and multilateral agreements, with full respect of national sovereignty and the Constitution, and with the endorsement of the Iraqi Government.

Within this context, several countries, including the United States, have intervened in Iraq at the behest of the Iraqi authorities.

Seized directly upon a request by the Iraqi government, the request was represented in a letter addressed to the French authorities dated September 17<sup>th</sup>, 2015 France has carried out in Iraq the (Chammal) operation since September 19<sup>th</sup>, 2014, military air actions in support of the Iraqi armed forces in their fight against terrorism. According to France, this intervention is thus analyzed as a move authorized by the country on its territory and the use of force is in accordance with the UN.

### ***3. The intervention of other states in Syria on self-defense grounds:***

In their previous letter dated September 20<sup>th</sup>, 2014, the Iraqi authorities, recalling the existence of attacks carried out from Syrian territory and their call for assistance from the international community, announced that they had asked the United States to take international action and strike the sites of terrorist groups.

Following this request, the United States informed the Security Council on 23<sup>rd</sup> September 2014 of its decision to intervene in Syria against terrorism under the collective defense legitimacy of Iraq, specifying in particular that: "The Syrian regime has shown that it does not have the means or the intention to take back these sanctuaries alone. The United States has therefore taken the necessary and proportionate military action in Syria to eliminate the threat that the Islamic State of Iraq and the Levant continues to pose to Iraq, including protecting Iraqi citizens from further attacks and allowing Iraqi forces to regain control of the country's borders."<sup>3</sup>

The United States also announced that it had "also launched a military action in Syria against AL-Qaeda members known as the Khorasan Group to address the terrorist threat they posed to the United States, its partners and allies."<sup>4</sup>

Other states subsequently informed the Security Council of their decision to intervene militarily in Syria. Thus, the United Kingdom notified the Security Council on November 25<sup>th</sup>, 2014, of its participation in the "collective self-defense activities of Iraq, as part of the international intervention led by the United States", "by carrying out, if deemed necessary and in accordance with the principle of proportionality, strikes on sites and military strongholds of the EIIL in Syria".<sup>5</sup>

Following the attack carried out by Daesh in Suruc on 20<sup>th</sup> July 2015, Turkey in turn informed the Security Council of its decision to exercise its right to collective and individual self-defense.<sup>6</sup>

These interventions in Syria from September 2014 have aroused various protests initiated by the Syrian regime.<sup>7</sup>

### ***4. France's intervention in Syria on the basis of collective self-defense***

#### ***4.1. the Political motivation and legal groundsof France's intervention.***

In the summer of 2015, the French authorities which had until then limited France's intervention in Iraq became convinced that the Syrian territory was being used to prepare attacks against France.

In terms of international law, the exercise of Iraq's right to collective self-defense offered a conceivable legal basis for intervening in Syria, as Iraq had made a request a year earlier, to which other countries had already responded.

Legally speaking, however, the consent of the Syrian regime could not be sought after for political reasons. The resolutions adopted by the United Nations Security Council did not provide the necessary legal grounds for an intervention either.<sup>8</sup>

The letter of the Permanent Representative of France at the UN dated September 8<sup>th</sup>, 2015, by which France has in accordance with the provisions of Article 51 of the Charter, notified the Security Council, of its intervention in Syria, it is written as follows:

« Mr. President, the terrorist actions of Daesh, including the atrocities committed against the civilian population in Syria and Iraq, have been described by the Security Council, notably in its resolutions S/RES/2178 and S/RES/2199, as a threat to the international peace and security. They also constitute a direct and exceptional menace to the security of France.

In their letter to the President of the United Nations Security Council on September 20<sup>th</sup>, 2014(S/2014/691), the Iraqi authorities requested the assistance of the international community engaged in actions involving participation in the fight against the attacks perpetrated by Daesh. Pursuant to the provisions of Article 51 of the Charter of the United Nations, France has initiated actions involving the participation of military air force in the face of attacks perpetrated by Daesh from the Syrian territory.

I request that you share this letter with the Security Councilmembers. ».<sup>9</sup>

#### ***4.2. Questions raised by France from September 2015***

The invocation of self-defense by France as a basis for its intervention in Syria could raise mainly two questions: was it possible in the absence of attributing the armed aggression to a country? Was France acting on the basis of collective self-defense alone or also on that of individual self-defense?

\*\* The first question dealt with the possibility of invoking the legitimacy of defense in response to an armed attack by Daesh, which, despite its claim to statehood, is not recognized as such.

In several cases, the International Court of Justice (ICJ) has ruled in a way that could be interpreted as limiting the invocation of self-defense in response to an attack attributable to a country.<sup>10</sup>

France had also previously raised reservations about the possibility of invoking the right to self-defense in the face of armed attacks perpetrated by non-governmental groups, without any link to a state

During the intervention in Afghanistan, it was because of the substantial support given by the Taliban regime, which controlled the Afghan government, to Al-Qaeda, the perpetrator of the September 11<sup>th</sup>, 2001 attacks, that France invoked the right of collective self-defense.<sup>11</sup>

The French authorities considered, however, that, with regard to Daesh, the following circumstances should be taken into account:

Concerning the real qualification of the act of aggression, the attacks perpetrated by Daesh against Iraq are equivalent, by their gravity, to an armed aggression within the terms of the article 51 of the Charter. The very survival of the Iranian government is indeed at stake. As the ICJ reminded in its view on the legality of the threat or use of nuclear weapons, one should not "neglect the fundamental right of every government for survival, and therefore its right to resort to self-defense in accordance with Article 51 of the Charter, when this survival is at stake".<sup>12</sup>

With regard to the perpetrator of these attacks, Daesh is a terrorist organization the activity of which has been seen as a threat to peace and international security by the Security Council, it controls a very large territory, in Iraq and Syria, and it has considerable resources and means of combat comparable to those of a government. This is what the then French defense minister noted when he described Daesh as a "proto-government".<sup>13</sup>

Collectively, these elements led the French authorities to consider that in this case and in an exceptional manner, the requirement of a direct or indirect attribution to a government of the aggression carried out by Daesh was not necessary to invoke legitimate defense.

As early as September 2014, the French Minister of Foreign Affairs had already indicated that "there is no legal obstacle to Daesh attacks being the object of reactions in Iraq as well as in Syria"..... Seems to be part of the possible legitimate defense, under article 51». <sup>14</sup>

During a debate in the Security Council on September 30<sup>th</sup>, 2015, Russian Foreign Minister Lavrov noted that "in the Iraqi and Syrian territories, the EIIL had created a quasi-extremist government that is at the head of a vast repression machine, had stable sources of income, and possessed a well-equipped army and elements of weapons of mass destruction». <sup>15</sup>

In the same context, in its 2249 resolution that was adopted on November 20<sup>th</sup>, 2015, the Security Council considered that Daesh "poses an unprecedentedly serious threat to international peace and security," particularly because of the "control it exercises over much of the territory and natural resources of Iraq and Syria."

**\*\* The second question raised by France's invocation of self-defense from September 2015 was: What kind of self-defense was involved?**

Given the reference in the French letter of 8<sup>th</sup> September 2015 that Iraq had requested, the collective dimension of individual self-defense was also invoked, due to the reference to the threat posed by Daesh to the security of France, in the same letter and in certain French government statements.

The Prime Minister answered this question during the parliamentary debate on the commitment of French forces in Syria, held on September 15<sup>th</sup>, 2015, by specifying that it came in the framework of collective self-defense that France was acting.

Thus, if the threat that Daesh represented for France was part of the political motivation for an intervention in Syria, it was-until November 13<sup>th</sup>, 2015 that the collective self-defense of Iraq served as the legal basis.

### ***5. France's invocation of individual self-defense following the attacks of November 13, 2015***

The attacks of November 13, 2015, perpetrated by Daesh were severe enough to constitute an armed aggression against France, and justify the invocation of individual self-defense.<sup>16</sup>

The Permanent Representative of France at the UN declared to the Security Council on November 20<sup>th</sup>, 2015: "The attacks of November 13<sup>th</sup> represented an armed aggression against France. Our military actions, of which we informed the Security Council from the very beginning, were justified by collective self-defense, can now also be based on individual self-defense in accordance with Article 51 of the United Nations Charter ». <sup>17</sup>

In this context, France also invoked the mutual assistance clause of article 42 paragraph 7 of the Treaty on European Union, by which states that: "in the event of a government being the target of an armed aggression on its territory, the other member countries shall provide aid and assistance by all the means in their power, in accordance with article 51 of the United Nations Charter ».

The unanimous support of the European Union member states, received in response to this request, testimony to their agreement on the legality of France's action under international law. Germany noted in particular in its letter of December 10, 2015 addressed to the Security Council to inform it of the decision to use its right of collective self-defense, that: "EIIL has conducted and continues to carry out armed attacks against Iraq, France and other governments. These countries have reacted and continue to act in legitimate self-defense measures ».<sup>18</sup>

#### ***6. The Security Council's support for interventions against terrorism in Iraq and Syria***

On November 20<sup>th</sup>, 2015, the Security Council unanimously adopted, on the proposal of France, resolution 2249, which recognizes the exceptional nature of Daesh, described as "a global threat of unprecedented gravity to international peace and security and a direct menace to the security of the Iraqi people and territory ».<sup>19</sup>

Under operative paragraph 5, the Security Council:

« Calls upon UN States members which are in a position to take all the necessary measures, in accordance with the international law, in particular the UN Charter, international human rights law, refugee law and international humanitarian law, in the territory under control of the Islamic State of Iran, also known as Daesh, in Syria and Iraq, to step up their efforts and coordinate their actions in order to prevent and suppress acts of terrorism committed in particular by the Islamic State of Iran, and all other individuals, groups, undertakings and entities associated with Al-Qaida. As well as other terrorist groups that have been designated as such by the Security Council or that may subsequently be designated as such by the International Syrian Support Group with the approval of the Security Council in accordance with the Group's Statement of November 14<sup>th</sup>, and to eradicate the sanctuary that they have established in a large area of the Iraqi and Syrian territories ».

It can be revealed that the expression "all necessary measures" is the statement traditionally used by the Security Council to refer to the use of force on the territory of a government.

However, the resolution is not explicitly placed under Chapter 7 of the Charter, and the Council "calls upon" governments to take the necessary measures. The resolution does not specify that the Council "authorizes" these measures, nor does it "decide" on them, according to the wording traditionally used by the Security Council to authorize the use of force, but it does request that, through resolution 2249, the Council unanimously formulates a clear request for the use of force against terrorism in the territory controlled by terrorists in Iraq and Syria. This shows the Security Council's support for the actions undertaken, even by France, without dismissing the legal basis previously invoked.

### ***7. Civilians are the first victims of the interventions in Iraq and Syria***

The intensive air bombardment in the various conflicts in Syria and Iraq claimed thousands of civilian lives in less than a decade. In all cases, the actors involved tend to minimize the number of deaths linked to them, as admitted by the international alliance led by the United States, or denied by Russia, an ally of the Syrian regime. In June 2014, the United States launched an air bombing campaign in Iraq and Syria to annihilate the military forces of the "caliphate" proclaimed by the Organization of the Islamic State (OEI, the Arabic acronym of which is Daech), before forming an international coalition a few months later composed of seventy-four member states. At the same time, in September 2015, Russia decided to provide military support to the regime of Mr. Bashar Al-Assad, which was on the verge of collapse in the face of a popular rebellion movement described as "terrorist" by Damascus and quickly controlled by jihadist groups. These two interventions would result in approximately 75,000 air "strikes" in the two countries. If the actions of the international coalition against the OEI and those of Moscow allied with the regime of Mr. Al-Assad are to be distinguished in terms of their intentions and contexts, they are similar in their disastrous consequences for the population. With these bombings, the major international armies have caused the death of 20,000 to 55,000 Syrian and Iraqi civilians.<sup>20</sup> How could such a toll, which remains an unofficial estimate, be established and how does it break down? In the context of a multi-faceted conflict marked by the presence of foreign forces, counting unarmed casualties is particularly difficult, depending both on the declarations of militarily engaged actors and on information gathered by non-governmental organizations (NGOs) the work of which is more or less consensual. In the article that follows, we will discuss the respective assessments of the interventions of the international coalition against the OEI, and of Russia against the Syrian rebellion.

### ***8. Review of France's military intervention in Syria***

On April 14th, 2018, France, together with the United States and the United Kingdom, conducted strikes on targeted military bases in Syria in response to the Syrian regime's use of other chemicals in Douma a week earlier. The context and motivation for France's military actions were outlined on the same day by French Minister of Europe and Foreign Affairs Jean-Yves Le Drian.<sup>21</sup> As the statement indicates, France's military actions on April 14th 2018 followed a new violation by the Syrian regime pertaining to the ban of using chemical weapons. A fact never confirmed by France, and an accusation bare of the slightest evidence. The intervention resulted in a huge number of civilian casualties.

### ***9. Review of Iraqi consent to the French intervention***

On September 18th, 2014, France responded favorably to the Iraqi request for intervention that was confirmed by the letter dated September 20th, 2014, addressed to the Security Council to grant air support to the Iraqi authorities, following this request France has committed to the international coalition mobilized against terrorism. This Iraqi consent, however, deserves examination. On one hand, because the French bombings will only be

legal if they do not exceed the limits set by Iraq.<sup>22</sup> These limits concern the necessary coordination with the Iraqi armed forces, as well as the absence of any threat to the civilian population, the absence of strikes on populated areas and respect for Iraqi sovereignty, this last condition is too vague to say the least. On the other hand, Iraq's consent to strikes against Daech can only concern its own territory, and not that of its neighboring country, Syria, over which it has no sovereignty. Neither France nor any other government can rely on Iraq's consent as a basis for its air strikes against Daech in Syria. It is only with the approval of the Syrian authorities that France could seek a consensual basis for its strikes on Syrian territory undertaken from September 2015.

### ***10. Examination of France's intervention legality in Syria***

Nothing in the statements of the representatives of France on the subject of the bombardments against Daech carried out in Syria mentions the consent of this government. And for a good reason, the French authorities no longer recognize the government in place, the departure of which is requested. The questionable nature of the other basis invoked for the French intervention in the Syrian territory nevertheless authorizes the jurist and the researcher to dig into this option.

A first and important question arises. Insofar as the only legitimate representative of the Syrian government in the view of the French authorities and the Syrian national coalition recognized on November 13th, 2012, could France not seek the consent of this entity to justify the bombings carried out against Daech in Syria? First of all, it must be noted that the French recognition was based on considerations of political opportunity (departure of the government in place, including President (Bashar Al Assad),<sup>23</sup> which is not unusual in terms of recognition of government, but which does not record any effectiveness of the coalition's power on Syrian territory.

With regard to the request to intervene issued by an internationally recognized government that has been overthrown by force, it has been argued (that in view of legal logic and existing practice, it does not seem that the mere call of an internationally recognized government,<sup>24</sup> which would be deprived of all effectiveness, would be sufficient to justify a foreign intervention). The remark should probably be extended to the case of a prematurely recognized ineffective government. France cannot therefore be blamed for not having sought the consent of the Syrian national coalition, the recognition of which remains relative, especially since the adoption by the Security Council of resolution 2254 of 2015,<sup>25</sup> which supports a political transition process in Syria that, by no means,<sup>26</sup> implies power handing over to this entity.<sup>27</sup>

### ***11. Conclusion***

From September 2014, France intervened in Iraq at the request of the Iraqi authorities, but without respecting its mandate in Iraq or the Syrian consent. Between September and November 2015, France used force, given the exceptional circumstances, within the framework of Iraqi collective self-defense. The Paris attacks of November 13, 2015 led France to also invoke its right to individual self-defense as the basis of its intervention in



Syria. The resolution 2249 (2015) confirmed the Security Council's support for these actions, it was unanimously adopted on November 20<sup>th</sup>, 2015 granting the Security Council's support to the international interventions undertaken against terrorism in Iraq and Syria included by France, without dismissing their previously invoked legal basis.

## **12. Bibliography List:**

<sup>1</sup> Resolution 2253 of 2015 adopted by the United Nations Security Council on December 17<sup>th</sup> 2015.

<sup>2</sup> Letter dated 25<sup>th</sup> June 2014 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary General,(S/2014/440):Letter dated 20 September 2014 addressed to the President of the Security Council.

<sup>3</sup> Letter dated January 11, 2013 addressed to the UN Secretary General and the President of the Security Council.

<sup>4</sup> Letter dated September 23, 2014, from the Permanent Representative of the United States to the United Nations addressed to the Secretary General of the United Nations (S/2014/695).

<sup>5</sup> Letter dated September 23, 2014, from the Permanent Representative of the United States to the United Nations addressed to the Secretary General of the United Nations (S/2014/851).

<sup>6</sup> Letter dated 24<sup>th</sup> July 2015, addressed to the President of the Security Council by the the permanent representative of mission of Turkey to the UN(S/2015/563). This letter stated that "clearly, the Syrian regime is neither able nor willing to oppose these threats emanating from its territory, which clearly jeopardize Turkey's security and the safety of its citizens...Under these circumstances, Turkey has engaged against Daesh in Syria, including in consultation with various members of the Global Coalition, the proportionate military actions that were necessary to address the terrorist threat and protect its territory and citizens."

<sup>7</sup> Notably identical letters dated September 17, 2015, addressed to the Secretary General and the President of the Security Council from the Permanent Representative of Syria to the UN (S/2015/710).

<sup>8</sup>Resolution 2170(2014) of August 15, 2015, resolution 2178(2014) of September 24, 2014, resolution 2199(2015) of February 12, 2015.

<sup>9</sup> Letter addressed by the Permanent Representative of France to the UN e=dated September 8<sup>th</sup> 2015.

<sup>10</sup> ICJ, Opinion, 9<sup>th</sup> July 2004, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Rec.2004, p.194, para.139; ICJ Judgment, 19<sup>th</sup> December 2005, Armed Activity on the Territory of the Congo (Democratic Republic of the Congo v. Uganda),Rec. 2005,pp.222-223,pars.146-147.

<sup>11</sup> See letter dated 23 November 2001 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council (S/2001/1103).See also letter dated 7 October 2001 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council (S/2001/946).

<sup>12</sup> V. <https://www.icj-cij.org/fr/affaire/95>The advisory opinions rendered by the ICJ on 8 July 1996 on the legality of the use of nuclear weapons by a government in armed conflict (W.H.O.) and on the legality of the threat and use of nuclear weapons.

<sup>13</sup> Mr. J-Y Le Drian, Opening speech of the 2015 National Strategic Research Conference (<http://www.defense.gouv.fr>)

<sup>14</sup>MMr. L. Fabius, speech delivered to the National Assembly in September 2014, <https://www.assemblee-nationale.fr/>

<sup>15</sup>Mr. Lavrov, speech to the members of the Security Council on September 30<sup>th</sup>, 2015, <https://www.un.org/securitycouncil/fr/content/current-members>

<sup>16</sup>Speech of the President of the French Republic to the Parliament in Congress, November 16, 2015: "France is at war. The acts committed Friday night in Paris ...are acts of war».

<sup>17</sup>Statement by the Permanent Representative of France to the Security Council on November 20<sup>th</sup>, 2015, <https://www.un.org/securitycouncil/fr/content/current-members>.

<sup>18</sup> Letter dated Dec. 10, 2015, from the Chargé d'affaires a.i. of the Permanent Mission of Germany to the United Nations addressed to the Security Council (S/2015/946).

<sup>19</sup>Dapo Akande & Marko Milanovic, The Constructive Ambiguity of the Security Council's ISIS Resolution, Ejil Talk, blog of the European Journal of International Law /21 novembre 2015/<https://www.ejiltalk.org/the-constructive-ambiguity-of-the-security-councils-isis-resolution/>

<sup>20</sup>for more information See:

<https://www.monde-diplomatique.fr/2022/03/LEFAUCONNIER/64422>

<sup>21</sup> Declaration of Mr. Jean-Yves le DREAN. Minister of Europe and Foreign Affairs, April 14th 2018(texts available at the following address: <https://www.diplomatie.gouv.fr/fr/dossiers-pays/syrie/article/declaration-m-jean-yves-le-drean-ministre-de-l-europe-et-des-affaires-etrangees>).

<sup>22</sup> CIJ, Armed Activities on the Territory of the Congo (DRC v. Uganda), judgment of 9 December 2005, Rec. p198, § 52

<sup>23</sup>See the French daily Le Monde, November 14, 2012, statement by the French president ( France recognizes the Syrian National Coalition as the sole representative of the Syrian people and therefore as the future government of democratic Syria, allowing to end the regime of Bashar Al Assad).

<sup>24</sup> P.Daillier, M. FORTEAU, A. PELLET, International Public Law (Nguyen Quoc Dinh), Paris, LGDJ/Lextenso.2009.P463.n°273.

<sup>25</sup>Statement by Mr. Jean-Yves Le DREAN. Minister of Europe and Foreign Affairs, April 14th 2018(texts available at the following address:<https://www.diplomatie.gouv.fr/fr/dossiers-pays/syrie/article/declaration-m-jean-yves-le-drean-ministre-de-l-europe-et-des-affaires-etrangees>).

<sup>26</sup> Resolution 2254 of 2015 adopted by the Security Council on December 18, 2015.

<sup>27</sup>R..VAN STEENBERGHE, (From Passive Consent to Self Defense after the Syrian Protest against the US-led Coalition), published on the 23 October 2015, available on the following link: <https://www.ejiltalk.org>.