



GA5: Legal Committee

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Issue: Addressing the legal challenges in enforcing accountability for non-state actors in cross-border conflicts

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I. Introduction

Violence rates all around the world started to increase faster as the 21st century progressed, not only state actors were in but non-state actors had also played crucial roles. The International Criminal Court, Tribunals, and national courts sometimes face jurisdictional barriers while dealing with non-state actors in cross-border conflicts. International Humanitarian Law requires states to juridify in case of a violation, but in cases involving non-state actors, the situation becomes complicated. States have struggled to provide court regulations to non-state actors due to the situation being international, not national. But since the International Humanitarian Law requires states to take actions, it creates a legal gap.

Another problem occurring nowadays regarding non-state actors in the struggle to identify them. As the International Committee of the Red Cross (ICRC) says, “In many conflicts today, it is becoming increasingly difficult to identify groups and distinguish them from one another as they engage in fighting in the same place and against the same adversary.” (ICRC 50). This problem makes it even more complicated for the jurisdictions regarding International Law and International Humanitarian Law.

The problems mentioned above are the legal challenges in enforcing accountability for non-state actors in cross-border conflicts. These challenges occur mostly in warfare, while two or more countries are witnessing conflict with each other. At that time, it is much easier and sometimes a need for the non-state actors to be involved. Since the armed non-state actors bear no responsibility for warfare, it is impossible to make them fit into human rights laws. The solution to this problem has its own dilemmas. One possible solution, which is also in use in the International Criminal Court and Tribunals, is the “the mechanism of the individual criminal responsibility” (Taşdemir 60). Unfortunately, this method is not successful enough due to states still being responsible for the actions taken within their territories. Nevertheless, this method is not fully useless. Giving armed non-state actors direct responsibility reduces the insurrections.

Non-state actors can be found all over the world, but Africa is one of the most common places. Countries such as Somalia, Ethiopia, Sudan, Mozambique, Tanzania, the Central African Republic, the Democratic Republic of the Congo (DRC), and many other countries witnessed armed non-state actors.

II. Key Vocabulary



Non-State Actors (NSAs): they are groups or individuals who “do not operate under the legal or political framework of any state” (Deb 2). Examples for NSAs can be terrorist groups, rebel factions, and even Non-Governmental Organizations (NGOs). NGOs are a type of non-violent NSA and can cooperate with governments to provide aid and advocate for human rights. Additionally, multinational corporations, such as huge companies, are also an example to NSAs.

International Law: “International law, the body of legal rules, norms, and standards that apply between sovereign states and other entities that are legally recognized as international actors.” (Shaw). Every nation has its own constitution and laws, so International Law creates a set of rules, legal rules, to be used around the world. International law acts like a legal bridge between the nations.

International Criminal Law (ICL): “International criminal law (ICL) codifies a body of law that defines international crimes such as genocide, war crimes, crimes against humanity, and the crime of aggression, as well as the procedures to be applied before international courts and tribunals.” (IAPHAP). ICL is independent of the constitutions of the countries. ICL defines a set of legal boundaries regarding international crime. These crimes can mostly be a result of armed conflicts. Since they are crimes, it is also directly related to human rights as well, making them connected to International Humanitarian Law.

International Humanitarian Law (IHL): “International humanitarian law is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict.” (ICRC). IHL is also a part of International Law. The Geneva Conventions of 1949 also have some parts of the IHL within themselves. IHL basically sets boundaries in armed conflicts regarding human rights. Since it is mostly considered a legal regulation on armed conflicts, such as warfare, it is also called the law of war. International law involves two important details: “the protection of those who are not, or no longer, taking part in fighting” and “restrictions on the means of warfare – in particular weapons – and the methods of warfare, such as military tactics.” (ICRC). Overall, IHL protects the rights of civilians who are affected by warfare.

Geneva Convention: “Geneva Conventions, a series of international treaties concluded in Geneva between 1864 and 1949 for the purpose of ameliorating the effects of war on soldiers and civilians.” (Shaw). The Geneva Conventions set legal rules, like IHL. They create boundaries for the ways in which people, especially civilians, are treated. The Geneva Conventions had evolved from 1864 to ending around 1949. As time passed and the technologies changed, new legal rules were needed, so the Geneva Conventions were updated accordingly. Furthermore, these conventions had played crucial roles in World War I and World War II.



International Criminal Court (ICC): “The International Criminal Court (ICC) is a court of last resort for the prosecution of serious international crimes, including genocide, war crimes, and crimes against humanity.” (Human Rights Watch). In the ICC, international criminals are tried by the laws mentioned above.

III. Involved Countries and Organizations

International Committee of the Red Cross

The International Committee of the Red Cross (ICRC) is an independent organization trying to ensure humanitarian assistance in armed conflicts and violence. The ICRC does not take any sides in armed conflicts; it always focuses on the humanitarian side of it. It provides humanitarian aid to people in warfare.

United Nations Office of Counter-Terrorism (UNOCT)

The United Nations Office of Counter-Terrorism (UNOCT) works on five main functions. The first one is to provide assistance to the General Assembly of the UN on counter terrorist attacks around the world. The second one is a balanced implication of the UNOCT Strategy. The third one assists Member States towards terrorism. The fourth one, on the other hand, is improving advocacy and resource mobilization for UNOCT's efforts. Finally, the fifth one, doing important legal work on preventing those actions. UNOCT is a very important UN charter working on the prevention of terrorist acts around the globe. They are acknowledging the laws such as IHL, ICL, and International Law to legally assist countries in establishing their jurisdiction.

Somalia

Somalia faces some difficulties from the armed non-state actors inside their territory, one of them being Al-Shabaab. In the United Nation Security Council's report on Al-Shabaab's actions stated that “Al-Shabaab has engaged in acts that directly or indirectly threaten the peace, security, or stability of Somalia, including but not limited to: acts that threaten the Djibouti Agreement of August 18, 2008, or the political process; and, acts that threaten the Transitional Federal Institutions (TFIs), the African Union Mission in Somalia (AMISOM), or other international peacekeeping operations related to Somalia.” (UNSC). Al-Shabaab threatened the peace of Somalia and prevented humanitarian aid from reaching civilians. Al-Shabaab's actions were an example to armed non-state actors. Somalia has struggled and is still struggling to take legal jurisdiction over Al-Shabaab.

Democratic Republic of Congo (DRC)

The March 23 (M23) Rebel Group is a prominent and highly organized non-state armed actor operating in the eastern Democratic Republic of Congo (DRC), a region plagued by long-standing conflict.



The group's name originates from a peace accord signed on March 23, 2009, which they claim the DRC government failed to implement. Since its renewal in 2022, M23 has evolved from a local rebel faction into a major regional security threat, seizing territory and engaging in direct combat with the Congolese army and other armed groups.. “March 23 Movement (M23), rebel group primarily based in North Kivu, a mineral-rich province in eastern Democratic Republic of the Congo (DRC). It is one of many armed groups in the conflict-ridden eastern DRC that have been fighting against other armed groups as well as the DRC’s army, the Armed Forces of the Democratic Republic of the Congo” (McKenna). The Southern African Development Community (SADC) is aiming to wipe out the M23 actions from the DRC after a 20-year-long United Nations Peacekeeping Mission. Just after the mission finished, Southern African Development Community (SADC) took on the responsibility to fight with the non-state actors in the region.

Ethiopia

Ethiopia has faced persistent internal rebellion, a crisis rooted in ethnic tensions and centralized governance, which was recently exacerbated by the devastating Tigray War. The conflict between the federal government and the Tigray People's Liberation Front (TPLF) resulted in tens of thousands of deaths and a severe humanitarian crisis, leaving deep scars and fueling widespread mistrust. Beyond Tigray, the country is grappling with active insurgencies, notably from the Oromo Liberation Army (OLA) in the Oromia region and the Fano militia in the Amhara region. The OLA's fight is driven by a long-standing feeling of political and economic marginalization among the Oromo people, while the Fano insurgency stems from opposition to the government’s efforts to disarm regional forces. These conflicts are interconnected by a central theme of ethnic grievances, power struggles, and a lack of faith in federal authority, creating a cycle of violence that continues to threaten Ethiopia's stability.

Mozambique

Mozambique, within itself, faces difficulties while disarming the militants. Militants can be considered armed and violent non-state actors. Militants in Mozambique are terrorizing peace in the country and putting human life in danger. Militants in Mozambique, primarily a group known as Ansar al-Sunna, are terrorizing the country by exploiting deep-seated socio-economic grievances and poor governance in the northern Cabo Delgado province. Their brutal tactics, which include beheadings, kidnappings, and attacks on civilians, have created a severe humanitarian crisis.

Tanzania

Tanzania is approximately in the same situation as Mozambique. They also face difficulties regarding disarming the militants in the country. Tanzania is also struggling to understand the root causes of the presence of militants in the country, which complicates efforts to eliminate them.



IV. Focused Overview of the Issue

1. Conflicts in the Legal System

The main problem with the issue of non-state actors is that International Law does not apply to them. The whole legal system in the world is designed to solve cross-border conflicts, which means that the laws only apply to States. When it comes to non-state actor groups, things change. They are not a part of any state, meaning that they are not eligible to be juridified in front of an international court. They do not fit into the ordinary Law and create a gray area.

On the other hand, since those people are not a part of any State, it's impossible to use the regulations of an individual State. Countries can not take individual actions for those people as well. So it would be correct to say no official lawsuits to juridify non-state actors.

2. The New Transformation of Norms

The increase of the non-state actors in the 20th century brought out the need for a new set of laws. The traditional law understanding needed to be changed in order to adapt to non-state actors. For these people none of the laws were efficient, however the new hybrid system was short of the solution. Individual accountability in international law has evolved, but it's still a work in progress. While older laws primarily held states responsible, 20th-century developments began shifting this focus to individuals. The establishment of the International Criminal Court (ICC) was a major step, making individual criminal responsibility for war crimes a clear and enforceable reality in cross-border conflicts. Now, a person can be lawfully juridified in front of an international court while not being a citizen of any State. However, this is still not enough to stop these actors. Even if the legal regulations had increased for non-State actors, there are still a great number of people in the industry.



WORLD

NUMBER OF ATTACKS

48,035 retained estimate

50,653 possible estimate

NUMBER OF DEATHS

210,138 retained estimate

216,065 possible estimate

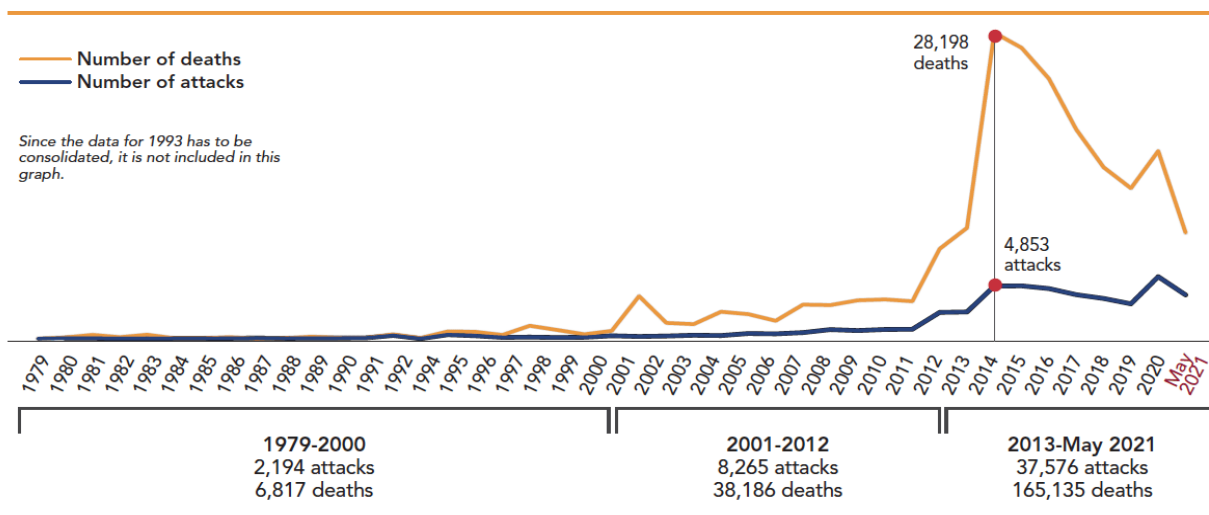


Image 1: Islamic Terrorist Attacks between 1979-2021

As this graph clearly indicates, even if these new norms had been adopted, there is still a significant number of incidents. As the number of terrorist attacks increases, harm to human life increases too. These non-state actors do not obey any law. This situation makes it impossible for them to obey the important international laws regarding human life. So IHL does not apply to them. This results in uncontrollable human hazards.

3. Possible Future of Non-State Actors

As the new technologies begin, it is much easier to access everyone's data. It results in, unwanted data that is more accessible for armed non-state actor groups. These people have and will have access to a lot of technologies to protect themselves and harm other people. In this changing world, adopting new norms was a possible solution for a time, but everything evolves super fast so we need a new update every day. Violations towards human life have been a lot lately from terrorist attacks, and there is not only one way to solve it. With the adaptation of new rules and better technologies, it is possible to prevent those armed non-State actors.



V. Important Events & Chronology

16th-19th Century	Back in that time, "pirates" were the non-State actor groups
28/12/1985	Roma and Vienna Airport Attacks: terrorist attack to the check-in counters of El Al Israel Airlines.
21/12/1988	The Lockerbie Bombing: Pan Am Flight 103 left London's Heathrow Airport headed for New York City. At 7:03 p.m. (Greenwich Mean Time) the Boeing 747, known as Clipper Maid of the Seas, leveled off at 31,000 feet. Just north of the England-Scotland border, an explosion blew a basketball-sized hole in the fuselage (Syracuse University).
26/02/1993	World Trade Center Bombing: one of the first and most visible terrorist attacks
26-29/11/2008	10 militants launched deadly attacks across Mumbai, killing 166 and injuring hundreds, before being stopped by security forces (BBC).
02/04/2015	At least 147 killed in attack on Garissa University, Kenya; al-Shabaab claims responsibility (Counter Terrorism Guide).
2014-Present	The extremist armed group Islamic State (ISIS) has committed widespread and systematic abuses in areas under its control in Syria, Iraq, and Libya. ISIS has also claimed responsibility for deadly attacks in nearly 20 other countries, including Afghanistan, Egypt, France, Indonesia, Tajikistan, and the United Kingdom (Human Rights Watch).



VI. Past Resolutions and Treaties

- [Rome Statute of the International Criminal Court](#)

As mentioned earlier, ICC is the court where the international crime culprit is tried. ICC differs from the International Court of Justice (ICJ) in that it prosecutes individuals, not countries. ICC focuses on individual responsibility rather than nations. The Rome Statute debates the importance and necessity of individual responsibility. But the problem is that ICC can only act when the crime is committed on the territory of a state's citizen who has committed the crime. In other words, the ICC cannot interfere in the internal affairs of a country. Otherwise, the process becomes much more complex and inefficient to proceed, which then may become an ICJ case between the criminal's nation and the state. The whole situation creates a loop within itself.

- [The Geneva Conventions of 1949](#)

The Geneva Conventions are a series of treaties that were signed on 12th of August 1949. It is the building block of the International Humanitarian Law. The Geneva Conventions of 1949 are worldwide conventions with being signed by 196 Member States. The Geneva Conventions are the primary legal regulations towards armed non-state actors.

- [The International Convention for the Suppression of the Financing of Terrorism \(1999\)](#)

The International Convention for the Suppression of the Financing of Terrorism is a very important treaty for the worldwide effort to wipe out terrorism. Article 2 of the treaty mentions one of the most important aspects of terrorism: the legal result of committing a terrorist crime. This article debates important jurisdictions for the committed crimes and individual consequences. Article 18 debates on the financing of terrorist effects and how they are also counted as a crime. Further, Article 18 discusses its legal consequences.

- [UN Security Council Resolution 1373](#)

Resolution 1373 focuses on the terrorist attacks and was written after 9/11, a terrorist attack occurred in the USA in 200. The resolution puts obligations for nations to prevent financing or supporting any acts of terrorism. Further, resolution puts important effort on how to take actions towards preventing attacks. It mentions deep concerns regarding providing resources for terroristic attacks and legal consequences. This resolution provides a wide aspect about terroristic attacks, talks about basically every legal action. It is important because of it being written right after a big terrorist attack in the USA.



- [The Cluster Munition Convention \(2008\)](#)

The Cluster Munition Convention is a very important convention regarding humanitarian disarmament. This convention strengthens the international legal norm in the aspect of weapon usage. Armed non-state actors are facing problems because of the weapon-related issues. This convention makes it more difficult for the harmful acts of non-state actors. However, this convention has its limitations too. Not every State had agreed upon the convention. Nations such as the United States, Russia, China, and Israel have not signed this convention, which decreases its importance and effectiveness.

VII. Failed Solution Attempts

There had been several attempts to solve this problem: new treaties, ICC, International Humanitarian Law, and many more. Unfortunately, non-state actors are still continuing their actions around the globe. These failures are primarily due to the mismatch between a state-centric legal system and the reality of non-state power. As discussed a lot in the report, individual responsibility was the key factor and played an important role. But the traditional legal framework makes it harder to make non-state actors take responsibility.

On the other hand, non-state actors do not have a legal system that makes them obey international laws, such as IHL. The restrictions drawn by those laws do not apply to them. Non-state actors continue to do their actions, ignoring international laws, resulting in endangering innocent people.

VIII. Possible Solutions

Legal problems regarding non-state actors can be seen as a problem that cannot be solved. However, with various methods regarding individual jurisdictions, actions can be reduced.

1. Taking Individual Responsibility

It is nearly impossible to detect non-state actors and where they belong. Because of the International Law, it was never fully non-state actors responsibility it was divided between the countries. Having new treaties towards implementation of legal actions for non-State actors to take more responsibility can reduce those actions. These groups are not connected to any nation, most of the time, which makes it harder for them to be registered to any database and even further invisible. These people or groups are harder to detect. Since there are no records for most of them, it creates problems in legal processes. It would be a great idea to find ways to ensure the legal process for them runs as smoothly as possible.



2. Establishing a New Organization

Even if there are a lot of organizations fighting against non-state groups, it is also important to fight with them in legal aspects. Organizations collaborating with UNOCT will make them stronger in the international league. An organization can be either non-governmental or not, but its main purpose should be to reach out everywhere on earth. These organizations can also work toward human rights for humans who are affected by the armed non-state actors. Their rights should be heard too. Legal conflicts can be solved with the help of this organization. They can even behave like “Lawyers Without Borders”; they do not have the same purpose, but they also provide legal assistance.

IX. Useful Links

Here are some links for delegates to further research the topic. I would recommend that you don't limit your research to this report. There is still a wider aspect that you should know about your delegation and the topic. Please take a look at the links below.

[The Challenges of Prosecuting Non-State Actors Under the International Criminal Law](#)

[International humanitarian law and the challenges of contemporary armed conflicts](#)

[Nonstate armed actors in 2024: The Middle East and Africa | Brookings](#)

[Respect for international humanitarian law by armed non-state actors in Africa](#)

[Non-state armed groups and today's intractability of conflict](#)

[Understanding a new generation of non-state armed groups](#)

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