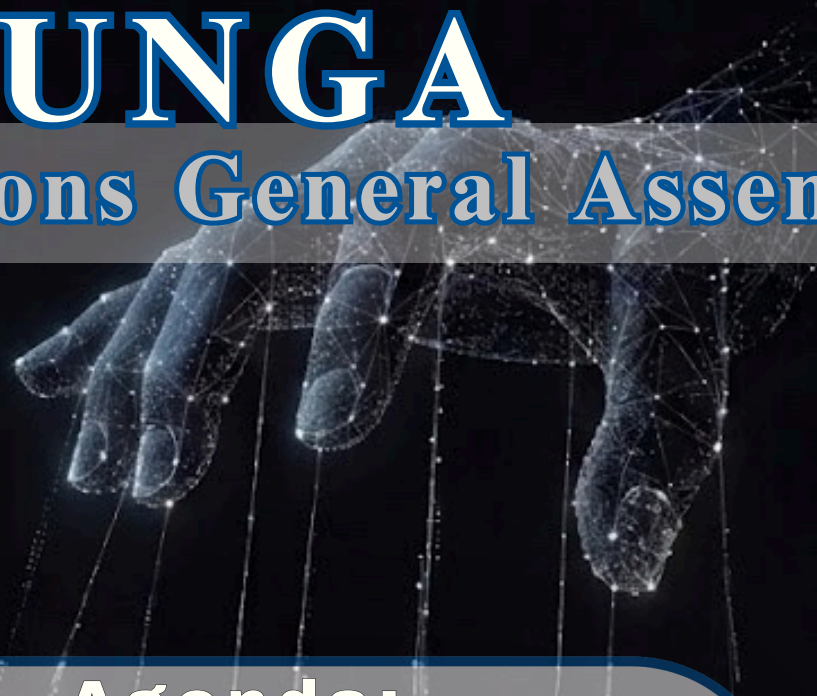




UNGA

United Nations General Assembly



Agenda:

**Deliberation on Confronting
State-Sponsored Terrorism and
Proxy Warfare, with Special
Emphasis on Establishing a
Binding International Legal
Framework for State
Accountability.**



DALY COLLEGE MODEL UNITED NATIONS 2026

United Nations General Assembly

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LETTER FROM THE EXECUTIVE BOARD

Welcome to the twelfth edition of the Daly College Model United Nations, DCMUN 2026.

On behalf of the entire Executive Board of the United Nations General Assembly, we extend our warmest greetings. Whether this is your very first Model UN conference or you are a seasoned delegate, we are genuinely glad you are here, and we want you to feel confident walking into this committee.

The General Assembly is the most inclusive deliberative body the international community has ever established. Every member state holds an equal voice, and what determines outcomes here is not privilege or seniority but the quality of your arguments, the depth of your preparation, and your ability to build coalitions across the room.

Our agenda this year is: **Confronting State-Sponsored Terrorism and Proxy Warfare, with Special Emphasis on Establishing a Binding International Legal Framework for State Accountability.**

To put it plainly: international law has well-developed rules requiring states to fight terrorism. What it has never done well is hold a state accountable when that state is itself secretly funding, arming, or directing a terrorist group. This is not a theoretical problem. It is at the centre of real crises unfolding right now, from the Sahel to the Red Sea. This committee will grapple with whether the international legal order can reform itself to meet that challenge, and how.

The study guide is your foundation. It covers the legal framework, the key gaps, and the positions of major actors in detail. Read it carefully and use it as your starting point, not your ceiling. We also expect every delegate to research their own country's position independently and to come to committee having genuinely engaged with the material.

We want to be clear about the standard we are aiming for: this is a committee that takes substance seriously. Delegates will be expected to engage with the legal and political questions on the agenda with precision and honesty. Rhetoric alone will not carry the room. But we equally want to be clear that this committee is not designed to be intimidating.



International law on state responsibility is genuinely difficult, and we do not expect anyone to arrive with all the answers. What we ask is that you arrive having done the work, and that you participate with curiosity and good faith.

We look forward to contested debates, hard bargains, and a resolution that reflects both the urgency of this agenda and the very real constraints of the world we are deliberating in.

See you on the floor.

Devansh Inani

Chairperson

Kavya Agrawal

Vice-Chairperson

Advika Mohan

Vice-Chairperson

Saumyaa Baheti

Rapporteur

The Executive Board

United Nations General Assembly

Daly College Model United Nations 2026

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About the Committee

The United Nations General Assembly derives its authority from Articles 10 through 14 of the UN Charter. Article 10 grants it a broad deliberative scope over any matter within the Charter's purview. Article 11 allows it to consider questions of international peace and security, while Article 12 restricts it from making recommendations on a matter actively before the Security Council - though this restriction has been interpreted more flexibly over time. Articles 13 and 14 direct the Assembly to promote the development of international law and to recommend measures for the peaceful adjustment of situations that might impair friendly relations among nations.

On voting, the General Assembly operates on a straightforward model: procedural questions require a simple majority, while "important questions" - including those concerning peace and security, the admission of members, and budgetary matters - require a two-thirds majority of members present and voting. Critically, no member state holds a veto. This is a fundamental distinction from the Security Council and one with direct consequences for this committee's work.

UNGA resolutions are not legally binding in the way that Security Council resolutions under Chapter VII are. A state cannot be compelled to comply with a General Assembly resolution. What resolutions do carry, however, is substantial normative and political weight. When states consistently act in accordance with a resolution over time, and when they do so out of a sense of legal obligation rather than mere courtesy, that practice can crystallise into binding customary international law. The Universal Declaration of Human Rights (1948) and the Declaration on Friendly Relations (Resolution 2625, 1970) are the clearest historical examples of this process at work.

When the Security Council is deadlocked and unable to act - as is often the case where the P5 have conflicting interests - the General Assembly retains a residual capacity to respond through the Uniting for Peace mechanism (Resolution 377A, 1950). This resolution allows the Assembly to convene an emergency special session and recommend collective measures, including the use of force, where the Council has failed to discharge its primary

responsibility. It has been invoked eleven times since 1950 and remains directly relevant to this committee's agenda.

The tools available to this committee range from declaratory political statements and operative resolutions to treaty initiation through the Sixth Committee, the establishment of investigative mandates along the lines of the IIIM Syria model, targeted sanctions recommendations, and the convening of emergency special sessions under Uniting for Peace. Understanding both the reach and the limits of each of these instruments is essential preparation for substantive committee work.

Key Definition

Why is there no clear definition of terrorism?

Political divisions and disagreements between countries, not technical problems, are what keep international law from having a clear definition of terrorism. Many people disagree with the broad definitions of terrorists because each country has its own way of defining them based on its own history and culture. For instance, many Western countries (like the US) call all violence by non-state actors terrorism, no matter what the reason is. On the other hand, many countries in the Global South (like Iran and Syria) want to leave out acts of violence that happen during national liberation struggles against colonial rule or foreign occupation. This is because a very broad definition could make resistance movements illegal. This clash means one side often labels the other a “terrorist” and vice versa, and this competing-definition problem has been a major obstacle to reaching a consensus on the definition of terrorism at the UN General Assembly Sixth Committee.

Most definitions of the act still come down to three main parts:

- (1) the act itself, which is a planned use of extreme violence or a credible threat of it;
- (2) the intent, which is to terrorize a large number of people, intimidate a population, or force a government or international body to act in a certain way; and
- (3) the target, which is mostly civilians or non-combatants, which is what distinguishes terrorism from lawful combat.



But there are still differences. For instance, U.S. law is mostly based on political or ideological goals, while some other states also include religious or economic reasons. National laws add even more conditions. For example, Russia's broad laws target "extremism," and India's post-Mumbai laws focus on cross-border links, making the world a patchwork of laws.

Past Attempts and Failures

After 9/11, there was a sense of urgency that led to action, but history shows that defining terrorism has often had its share of clashes. The UN Security Council passed Resolution 1373 (2001) unanimously just days after the attacks. It said that all countries had to make terrorist acts, financing, recruitment, and safe havens illegal under their own laws. However, it deliberately did not define terrorism, leaving that decision to each state in order to avoid the political minefield.

Previous attempts were less successful. A Macedonian separatist killed King Alexander I of Yugoslavia and French Foreign Minister Louis Barthou in 1934. This shocked the world and made the League of Nations take action. It wrote the Convention for the Prevention and Punishment of Terrorism (1937) and a second treaty that called for a permanent international criminal court between 1935 and 1937. Article 1(2) of the Convention broadly defined terrorism as "all criminal acts directed against a State and intended or calculated to create a state of terror in the minds of particular persons, or in the general public," including murder, kidnapping, and attacks on property. States were expected to criminalize such acts, apply extraterritorial jurisdiction, and extradite suspects, while omitting the traditional "political offense exception" that had protected some offenders. However, the instrument never entered into force.

The draft CCIT defines an act as terrorism if it causes death, serious injury, or major property damage with the intent to:

- Intimidate a population, or
- Compel a government or international organization to act or abstain from acting.

The 2004 High-Level Panel on Threats, Challenges and Change, established by UN Secretary-General Kofi Annan, defined a threat to international security as "any event or

process that leads to large-scale death or lessening of life chances and undermines States as the basic unit of the international system".

19 Sectoral Conventions against Terrorism

Since 1963, the international community has elaborated 19 international legal instruments to prevent terrorist acts. Those instruments were developed under the auspices of the United Nations and the International Atomic Energy Agency (IAEA), and are open to participation by all Member States.

Instruments regarding civil aviation

-1963 Convention on Offences and Certain Other Acts Committed On Board Aircraft - This convention applies to acts affecting in-flight safety and gives authority to aircraft commanders to use reasonable measures to constrict any person who is believed to commit any act that jeopardizes the safety of the aircraft.

-1970 Convention for the Suppression of Unlawful Seizure of Aircraft- This convention criminalizes hijacking of an airplane using force, threat or any form of intimidation and give severe punishments to do those who attempt to do so. It requires extradition or prosecution of the offenders by the custodial parties and assistance in criminal proceeding by related parties.

-1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation- It makes it illegal for a person to jeopardise the safety of the aircraft using acts of violence; explosive devices, attempts of such acts or to be an accessory to such crimes. It requires parties to hand out severe punishments and the custodial parties to perform extradition or submit the case for prosecution.

-1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation-Extends the provisions of the Montreal Convention to encompass terrorist acts at airports serving international civil aviation

-2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation-It criminalises the usage of civil aircrafts to cause harm or damage and/or to

discharge biological, chemical, biological weapons or such substances that may cause harm. It also criminalises conspiracies to commit such crimes and credible threats.

-2010 Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft- This supplements the Convention for the Suppression of Unlawful Seizure of Aircraft by broadening its scope to include usage of modern technology and incorporates provisions of the Beijing Convention related to threats and conspiracies.

-2014 Protocol to Amend the Convention on Offences and Certain Acts Committed on Board Aircraft

Instrument regarding the protection of international staff

-1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons- Defines an "internationally protected person" as a Head of State, Minister for Foreign Affairs, representative or official of a State or international organization who is entitled to special protection in a foreign State, and his/her family; and requires parties to criminalise attacks upon the person or the liberty of an internationally protected person.

-1979 International Convention against the Taking of Hostages- Any person who captures, detains or threatens to kill, harm or continue to detain another person to force a third party, namely a State, an international intergovernmental organization, a natural or legal person or a group of persons, to do or not to do any act as an explicit or implicit condition for the release of the hostage, commits the offence of taking hostage within the meaning of this Convention.

Instrument regarding the nuclear material

-1980 Convention on the Physical Protection of Nuclear Material

Criminalizes the unlawful possession, use, transfer or theft of nuclear material and threats to use nuclear material to cause death, serious injury or substantial property damage.

-2005 Amendments to the Convention on the Physical Protection of Nuclear

Material-Requires States Parties to legally safeguard nuclear facilities and materials used domestically, including during storage and transport, and facilitates increased international cooperation for swift recovery of stolen or smuggled nuclear materials, mitigation of radiological or sabotage incidents, and prevention of related crimes.

-1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation-Establishes a legal regime applicable to acts against international maritime navigation that is similar to the regimes established for international aviation; and a person illegally and deliberately seizes or exercises control over a ship by force, threat or intimidation; carries out an act of violence against a person on board a ship if that act is likely to jeopardise the safe navigation of the ship; places a destructive device or substance on board a ship; and other acts against the safety of ships.

-2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation-The text outlines legal measures to criminalize using a ship to facilitate terrorism, transporting materials intended for terrorist acts, transporting terrorists, and establishing procedures for boarding ships suspected of committing offenses under the Convention.

-1988 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf

Establishes a legal regime applicable to acts against fixed platforms on the continental shelf that is similar to the regimes established against international aviation.

-2005 Protocol to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms located on the Continental Shelf

Adapts the changes to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation to the context of fixed platforms located on the continental shelf.

Instrument regarding explosive materials

-1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection

Parties must control and prevent the use of unmarked plastic explosives that lack detection agents, including prohibiting production, controlling movement, and managing existing stocks through destruction or marking within specified deadlines.

Instrument regarding terrorist bombings



-1997 International Convention for the Suppression of Terrorist Bombings

Creates a regime of universal jurisdiction over the unlawful and intentional use of explosives and other lethal devices in, into, or against various defined public places with intent to kill or cause serious bodily injury, or with intent to cause extensive destruction of the public place.

Instrument regarding the financing of terrorism

-1999 International Convention for the Suppression of Terrorism Financing-Requires states to hold those who finance terrorism criminally, civilly, or administratively liable for such acts; requires parties to take action to prevent and counteract the financing of terrorists, whether direct or indirect, through organizations claiming to have charitable, social, or cultural goals or that also engage in illicit activities like drug trafficking or gun running; and provides for the identification, freezing, and seizure of funds allocated for terrorist activities as well as the sharing of the forfeited funds with other States on a case-by-case basis. Refusing to cooperate is no longer justified by bank secrecy.

Instrument regarding nuclear terrorism

-2005 International Convention for the Suppression of Acts of Nuclear Terrorism includes a wide range of acts and potential targets, such as nuclear reactors and power plants; specifies that offenders will either be extradited or prosecuted; covers threats and attempts to commit such crimes or to participate in them as an accomplice; encourages states to work together to prevent terrorist attacks by exchanging information and supporting one another in criminal investigations and extradition proceedings; and addresses both crisis situations (helping states resolve the issue) and post-crisis situations (using the International Atomic Energy Agency (IAEA) to render nuclear material safe).

State Terrorism and State Sponsored Terrorism-

State terrorism refers to actions taken by governments that employ terrorist tactics to achieve political objectives, either by supporting terrorist groups or by practicing violence against



their own citizens. This concept includes a range of activities, including secret arrests, torture, and extrajudicial killings aimed at creating terror among populations

State Sponsored Terrorism is when governments support international terrorism either by engaging in terrorist activity themselves or by providing arms, training, safehaven, diplomatic facilities, financial backing, logistic and/or other support to terrorists.

In the context where a state is said to be involved in a terrorist activity, the legal evaluation centers on two possible ways of identifying responsibility:

Attribution (Imputation): The question in attribution or imputation involves determining whether there was any kind of direct link between the acts of the terrorist organization and that of the state. As per the principles of Nicaragua (ICJ) and Tadic (ICTY) cases, the state would be liable only if the terrorist group was under "effective" or "overall" control of the state in relation to such an act. This is because such a high standard of control makes the act equivalent to the state act thus permitting the right to self-defense.

Breach of Due Diligence (Independent Wrongfulness): In case a state has failed to attain a sufficiently high level of control over a terrorist group and therefore fails to be responsible for the act, it could still be said to be guilty of an independent wrongful act of "breach of due diligence," whereby the terrorist activities were committed in the state territory.

PROXY WARFARE

Proxy war, a military conflict in which one or more third parties directly or indirectly support one or more state or nonstate combatants in an effort to influence the conflict's outcome and thereby to advance their own strategic interests or to undermine those of their opponents.

Third parties in a proxy war do not participate in the actual fighting to any significant extent, if at all.

Proxy warfare involves principal powers using smaller surrogate powers (local groups or smaller states) to fight the wars for them. Alliances and coalitions both involve open and cooperative partnerships instead of proxy warfare where larger patrons use smaller proxies to fight their wars.

Previous DOD doctrine characterized irregular warfare as "a violent struggle among state and non-state actors for legitimacy and influence over the relevant population(s)." IW actors may

use nontraditional methods such as guerrilla warfare, terrorism, sabotage, subversion, criminal activities, and insurgency in their efforts to control the target population. In IW, a less powerful adversary seeks to disrupt or negate the military capabilities and advantages of a more powerful military force, which usually serves that nation's established government. Because of its emphasis on influencing populations, actions to control the IE, to include actions in cyberspace, play a prominent role in IW

Differences

Irregular Warfare (how): Irregular warfare refers to a type of warfare which is identified based on the manner it is conducted; it involves the use of indirect, unattributable or asymmetric means to intimidate or persuade an opponent without engaging him directly through conventional military force. Examples include insurgency, cyber warfare, sabotage, etc.

Proxy Warfare (deals with who): Proxy war refers to a structural arrangement in which a third party acts as a sponsor and aids the other party, referred to as the proxy, in conducting the actual combat against an enemy.

The Proxy Threshold Problem concerns the inability to define a clear legal and/or political threshold when enough state assistance to a non-state entity becomes an issue of legal responsibility for its actions.

Why Does This Matter for Attribution?

High Standards of Proof Attribution requires the fulfillment of a high threshold of proof (such as the “effective control” standard). In most cases, it is extremely difficult to prove that the state was behind a certain act, even though one knows that it supplied the necessary resources.

Plausible Deniability -The fundamental advantage of employing proxies lies in the possibility of having plausible deniability. With the proxy threshold problem, a state has a chance to fund, train, and coordinate an attack but does not cross the line into “legal state responsibility”, thus preventing the victim state from retaliating legally.



Political Versus Technical Attribution- The “growing gap” between technical attribution (proof through digital or material evidence) and *political* attribution has been discussed. If the level of “effective control” required is too high to meet judicial thresholds, states might be tempted to reduce their threshold of evidence in order to have grounds for retaliation.

Non-State Actors (NSAs)

Non-state actors (NSAs) consist of paramilitary organizations, terrorist groups, private military contractors (PMC), and cyber/criminal networks. They differ from states in that they do not have full international personality; they are considered to possess only relative or functional personality, whereby they are regarded as legal subjects only for a certain purpose. In other words, their legal status is recognized within the scope of a particular purpose only. Non-state actors automatically become the bearers of rights and duties under IHL when they become involved in any armed conflict.

Private Military Companies (PMCs)

The legal difference between a PMC worker and a "mercenary" under international law is mentioned in Article 47 of Additional Protocol I of the Geneva Convention. The problem with the aforementioned legal criterion is that it is extremely strict, as it includes six elements which need to be met simultaneously. In particular, to qualify as a mercenary one needs to be specifically hired for battle purposes and be motivated by monetary considerations above and beyond those of ordinary military personnel.

Montreux Document: An unenforceable document specifying the application of IHL in cases involving PMCs with an emphasis on the states' obligations with regard to regulation

Case Study (Wagner): The example of the Wagner group demonstrates how the company abused these loopholes, remaining in the "gray area" between a corporation, the state's proxy and a paramilitary organization.

Hybrid Warfare

Hybrid warfare blends conventional military force with proxy operations, cyber attacks, disinformation, and economic coercion. It deliberately exploits legal accountability gaps (the grey zone) .

Under the traditional Westphalian system, states use sovereignty as a shield to prevent external interference in their domestic affairs. However, as noted in the this often clashes with modern legal principles like Responsibility to Protect (R2P) and erga omnes obligations, which argue that the international community has a duty to intervene when a state fails to prevent mass atrocities or state-sponsored terrorism. This tension creates a "legal gap" where states may hide behind their borders to evade responsibility for international crimes.

The Responsibility to Protect – known as R2P – is an international norm that seeks to ensure that the international communityMasking Attribution: By using proxies and cyber actors, states create "deniability," making it difficult for victims to prove the "effective control" required under the Nicaragua standard for state responsibility.

Exploiting gaps: Hybrid adversaries operate in areas where international law is ambiguous or underdeveloped, making it hard for the international community to define specific actions as "armed attacks" that would trigger the right to use force in self-defense.

State Practice and Opinio juris

A requirement for the existence of customary international law , together with opinio juris , is state practice or the actual actions or omissions of states . Article 38, paragraph 1, subparagraph b, of the Statute of the International Court of Justice states that the practice relevant to establishing customary international law is that which is general and accepted as law. The last part of this paragraph refers to the element of opinio juris , but it is the word “general” that is of importance. It indicates that general, or widespread, practice— not isolated practice— is important. Determining what constitutes state practice usually requires examining historical records that indicate how states act.

Customary International law

Customary international law refers to international obligations arising from established international practices, as opposed to obligations arising from formal written conventions and treaties. Customary international law results from a general and consistent practice of states that they follow from a sense of legal obligation. Two examples of customary international laws are the doctrine of non-refoulement and the granting of immunity for visiting heads of state.

Customary international humanitarian law (IHL) consists of rules that come from "a general practice accepted as law" and exist independent of treaty law. Customary IHL is of crucial importance in today's armed conflicts because it fills gaps left by treaty law and so strengthens the protection offered to victims.

States recognize that treaties and customary international law are sources of international law and, as such, are binding. This recognition is enshrined, for example, in the Statute of the International Court of Justice. One illustration of the binding nature of customary international law is its application by national and international courts and tribunals.

Generally, the purpose of international law is to regulate the relationship between states; international law is therefore binding on states. This is also true for both treaty-based and customary IHL, as it regulates armed conflicts arising between states. However, a particular feature of IHL is that some of its rules regulate armed conflicts occurring between a state and an armed opposition group or between such groups. The rules that regulate such conflicts are applicable to all parties, whether they are a state or an armed opposition group. The analysis of state practice shows that many rules of customary IHL applicable in non-international armed conflicts are binding on states as well as on armed opposition groups.

Several reports presented at the Symposium have examined the various ways in which the United Nations is called upon to contribute to implement and ensure compliance with international humanitarian law by States and other actors on the international scene.

Jus Cogens

A peremptory norm of general international law (*jus cogens*) is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.. It is based upon article 53 of the 1969 Vienna Convention with modifications to fit the context of the draft conclusions.

While terrorism is a widely condemned crime, debates persist on whether its prohibition has attained *jus cogens* status, though recent scholarship argues it is a non-derogable norm aimed at protecting civilian safety.

Even during wartimes there are some actions that are non-derogable such as the right to a fair trial, it's considered to be a peremptory actor or States cannot use "enhanced interrogation" or torture on terror suspects, regardless of the perceived urgency of the information.

There is no universally finalised status on whether or not terrorism can be considered as jus cogens however it is a widely accepted fact that terrorism has attained the status of jus cogens due to its immense harm on all of mankind.

ERGA OMNES

Erga omnes obligation is one of the general principles of international law – ‘obligation towards all’. It means that a State is under an obligation to follow the provisions of a treaty to which it has consented to follow. It is not only an obligation, but a right to ensure that other Member States are following or not. These attributes are found either in general international law or in any multilateral treaties.

A key application of erga omnes in terrorism is the principle that states must either prosecute suspected terrorists within their jurisdiction or extradite them to a state that will.

While erga omnes are specifically different, there is a close connection between them and jus cogens (norms that have been formulated as non-derogable). The conduct of terrorism is often characterized by violations of these norms (for example, prohibitions on the employment of force against civilians). A specific prohibition against an act of terrorism will be classified as an erga omnes obligation once it reaches the status of being such a norm.

Sovereignty

A scoping review of the literature reveals that Westphalian sovereignty is a Eurocentric concept implicated in the colonisation of Indigenous peoples in settler societies. Conversely, Indigenous sovereignty is a broader idea that involves social and cultural aspects, recognises the interdependencies between political actors and relationships

to the land, and acknowledges the contextualised nature of sovereignty. We suggest that the two conceptions of sovereignty cannot be reconciled with each other. However, in a shifting political terrain, Indigenous sovereignty poses a critical challenge to the Eurocentric definition of sovereignty.

The Peace of Westphalia was a series of peace treaties signed between May and October 1648 in the Westphalian cities of Osnabrück and Münster. The treaties ended the Thirty Years' War and the Eighty Years' War. The Peace of Westphalia established the precedent of peace reached by diplomatic congress and a new system of political order in Europe based upon the concept of co-existing sovereign states. The Westphalian principle of the recognition of another state's sovereignty and right to decide its own fate rests at the foundations of international law today.

The principle of international law that each nation-state has sovereignty over its territory and domestic affairs, to the exclusion of all external powers, on the principle of non-interference in another country's domestic affairs, and that each state (no matter how large or small) is equal in international law. The doctrine is named after the Peace of Westphalia, signed in 1648.

y never again fails to halt the mass atrocity crimes of genocide, war crimes, ethnic cleansing and crimes against humanity. The concept emerged in response to the failure of the international community to adequately respond to mass atrocities committed in Rwanda and the former Yugoslavia during the 1990s. The International Committee on Intervention and State Sovereignty developed the concept of R2P during 2001.

The Responsibility to Protect was unanimously adopted in 2005 at the UN World Summit, the largest gathering of Heads of State and Government in history. It is articulated in paragraphs 138 and 139 of the World Summit Outcome Document:

The UN Charter framework

- Article 2(4)-All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

- Article 51- Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.
- Article 103-In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail

The ILC Articles on State Responsibility (ARSIWA, 2001)

- Article 4 Conduct of organs of a State
 1. The conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the organization of the State, and whatever its character as an organ of the central Government or of a territorial unit of the State.
 2. An organ includes any person or entity which has that status in accordance with the internal law of the State.
- Article 5 Conduct of persons or entities exercising elements of governmental authority

The conduct of a person or entity which is not an organ of the State under article 4 but which is empowered by the law of that State to exercise elements of governmental authority shall be considered an act of the State under international law, provided the person or entity is acting in that capacity in the particular instance.

- Article 6 Conduct of organs placed at the disposal of a State by another State

The conduct of an organ placed at the disposal of a State by another State shall be considered an act of the former State under international law if the organ is acting in

the exercise of elements of the governmental authority of the State at whose disposal it is placed.

- Article 8 Conduct directed or controlled by a State

The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of, that State in carrying out the conduct.

- Article 11 Conduct acknowledged and adopted by a State as its own

Conduct which is not attributable to a State under the preceding articles shall nevertheless be considered an act of that State under international law if and to the extent that the State acknowledges and adopts the conduct in question as its own

- Article 16 Aid or assistance in the commission of an internationally wrongful act

A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if:

(a) that State does so with knowledge of the circumstances of the internationally wrongful act; and

(b) the act would be internationally wrongful if committed by that State.

- Article 31 Reparation

1. The responsible State is under an obligation to make full reparation for the injury caused by the internationally wrongful act.

2. Injury includes any damage, whether material or moral, caused by the internationally wrongful act of a State.

- Article 32 Irrelevance of internal law

The responsible State may not rely on the provisions of its internal law as justification for failure to comply with its obligations under this part.

- Article 33 Scope of international obligations set out in this part

1. The obligations of the responsible State set out in this part may be owed to another State, to several States, or to the international community as a whole, depending in particular on the character and content of the international obligation and on the circumstances of the breach.

2. This part is without prejudice to any right, arising from the international responsibility of a State, which may accrue directly to any person or entity other than a State.

- Article 34 Forms of reparation

Full reparation for the injury caused by the internationally wrongful act shall take the form of restitution, compensation and satisfaction, either singly or in combination, in accordance with the provisions of this chapter.

- Article 35 Restitution A State responsible for an internationally wrongful act is under an obligation to make restitution, that is, to re-establish the situation which existed before the wrongful act was committed, provided and to the extent that restitution:

(a) is not materially impossible

(b) does not involve a burden out of all proportion to the benefit deriving from restitution instead of compensation

- Article 36 Compensation

1. The State responsible for an internationally wrongful act is under an obligation to compensate for the damage caused thereby, insofar as such damage is not made good by restitution.

2. The compensation shall cover any financially assessable damage including loss of profits insofar as it is established

Why is ARSIWA the single most important instrument for this committee?

- ARSIWA (mainly article 8) states that a state is to be held responsible for the act of a proxy and the state must exercise ‘effective control’ over the operation carried out. This mandate is often taken advantage of by states due to yet again plausible deniability while funding/encouraging/training etc.
- Article 16 to Article 18 in ARSIWA clearly defines the liability of the state for any assistance or sponsorship provided to another state or entity in committing an internationally wrongful act. This means that under Article 16 to 18, there is a possibility that sponsors could be held liable for their sponsorship alone.
- In addition to control measures, there is another general requirement that states fulfill in ensuring that their territory and resources do not become conduits for acts of terror. This provides an additional ground on which a state may be held liable in the absence of control.

Effective control standard — ICJ Nicaragua v. United States (1986): definition, threshold, application

OVERVIEW OF THE CASE

On 9 April 1984 Nicaragua filed an Application instituting proceedings against the United States of America, together with a Request for the indication of provisional measures concerning a dispute relating to responsibility for military and paramilitary activities in and against Nicaragua. On 10 May 1984 the Court made an Order indicating provisional measures. One of these measures required the United States immediately to cease and refrain from any action restricting access to Nicaraguan ports, and, in particular, the laying of mines. The Court also indicated that the right to sovereignty and to political independence possessed by Nicaragua, like any other State, should be fully respected and should not be jeopardized by activities contrary to the principle prohibiting the threat or use of force and to the principle of non-intervention in matters within the domestic jurisdiction of a State. The Court also decided in the aforementioned Order that the proceedings would first be addressed to the questions of the jurisdiction of the Court and of the admissibility of the Nicaraguan Application. Just before the closure of the written proceedings in this phase, El Salvador filed a declaration of intervention in the case under Article 63 of the Statute, requesting permission to claim that the Court lacked jurisdiction to entertain Nicaragua’s Application. In its Order

dated 4 October 1984, the Court decided that El Salvador's declaration of intervention was inadmissible in as much as it related to the jurisdictional phase of the proceedings.

After hearing arguments from both Parties in the course of public hearings held from 8 to 18 October 1984, on 26 November 1984 the Court delivered a Judgment stating that it possessed jurisdiction to deal with the case and that Nicaragua's Application was admissible. In particular, it held that the Nicaraguan declaration of 1929 was valid and that Nicaragua was therefore entitled to invoke the United States declaration of 1946 as a basis of the Court's jurisdiction (Article 36, paragraphs 2 and 5, of the Statute). The subsequent proceedings took place in the absence of the United States, which announced on 18 January 1985 that it "intends not to participate in any further proceedings in connection with this case". From 12 to 20 September 1985, the Court heard oral argument by Nicaragua and the testimony of the five witnesses it had called. On 27 June 1986, the Court delivered its Judgment on the merits. The findings included a rejection of the justification of collective self-defence advanced by the United States concerning the military or paramilitary activities in or against Nicaragua, and a statement that the United States had violated the obligations imposed by customary international law not to intervene in the affairs of another State, not to use force against another State, not to infringe the sovereignty of another State, and not to interrupt peaceful maritime commerce. The Court also found that the United States had violated certain obligations arising from a bilateral Treaty of Friendship, Commerce and Navigation of 1956, and that it had committed acts such to deprive that treaty of its object and purpose.

It decided that the United States was under a duty immediately to cease and to refrain from all acts constituting breaches of its legal obligations, and that it must make reparation for all injury caused to Nicaragua by the breaches of obligations under customary international law and the 1956 Treaty, the amount of that reparation to be fixed in subsequent proceedings if the Parties were unable to reach agreement. The Court subsequently fixed, by an Order, time-limits for the filing of written pleadings by the Parties on the matter of the form and amount of reparation, and the Memorial of Nicaragua was filed on 29 March 1988, while the United States maintained its refusal to take part in the case. In September 1991, Nicaragua informed the Court, *inter alia*, that it did not wish to continue the proceedings. The United States told the Court that it welcomed the discontinuance and, by an Order of the President dated 26 September 1991, the case was removed from the Court's List.

Overall control standard — ICTY Tadić (1999):

The decision made in the Tadić (1999) case is crucial to international law because the restrictive approach to proving that states are engaged in the use of armed forces through the test known as "effective control," which is based on showing that states have directed all specific acts performed by individuals who are not members of these states, was rejected. The principle of "overall control" was put forward by the ICTY Appeals Chamber, which considers the realities of contemporary wars where the existence of proxies becomes possible due to the state's financial, training, and strategic support provided for them. The new standard provides for establishing "overall control" if states have any involvement in organizing, coordinating, or planning activities conducted by certain groups. In addition, this standard is important as it allows dealing with the plausible deniability technique, which is frequently used by states to avoid responsibility for their proxies' actions.

The ICJ's explicit rejection of overall control for state responsibility purposes — Bosnia Genocide (2007)

In its Genocide judgment, the International Court of Justice discussed the question of whether the acts of genocide carried out at Srebrenica by Bosnian Serb armed forces must be attributed to the Federal Republic of Yugoslavia (FRY), as claimed by Bosnia. It applied the 'effective control' test set out in Nicaragua, reaching a negative conclusion. The Court also held that the broader 'overall control' test enunciated by the International Criminal Court for the former Yugoslavia (ICTY) in Tadić; did not apply, on two grounds. First, the test had been suggested by the ICTY with respect to the question of determining whether an armed conflict was international and not with regard to the different issue of state responsibility; secondly, in any case the test would have overly broadened the scope of state responsibility.. However, as no rules of international humanitarian law were of assistance for such determination, the Tribunal explicitly decided to rely upon international rules on state responsibility. The ICTY thus advanced the 'overall control' test as a criterion generally valid

for imputation of conduct of organized armed groups to a particular state. The test was based on judicial precedents and state practice. In addition, the ICTY did not exclude the applicability of the 'effective control' standard, stating however that it only applied for the attribution to a state of conduct by single private individuals. Judicial decisions, even subsequent to *Tadić*, support the view that whenever conduct of organized armed groups or military units is at stake it suffices to show that the state to which they may be linked exercises 'overall control' over them, in order for the conduct of those groups or units to be legally attributed to the state. Hence, any sound critique of *Tadić* should not suggest that it dealt with a matter different from state responsibility. It should instead be capable of showing that state and judicial practice do not corroborate that test.

Which standard should govern state-sponsored terrorism and the strongest arguments on each side?

The core issue in the discussion on state-sponsoring terrorism is what standard to apply in determining whether a state is involved in terrorism: the effective control standard, established in the ICJ's ruling in *Nicaragua*, mandates evidence of actual instructions by a state for each wrongful act, while the overall control standard, established by the Appeals Chamber of the ICTY in *Tadić* examines the overall relationship between a state and an organized armed group, especially in cases where the state actively supports the group, organizes, coordinates, or plans its operations. The proponents of the overall control standard believe that it is more realistic since states usually sponsor terrorism in a systematic manner without directly controlling every single attack but only funding, training, arming, and instructing non-state actors to carry out such acts, and an excessively high bar set by effective control would create a loophole for terrorism sponsors. On the other hand, supporters of the effective control standard maintain that it ensures clarity and certainty, upholds state sovereignty, and avoids attributing acts to states through a lower threshold of involvement in their activities.

The *aut dedere aut judicare* (extradite or prosecute) model

The role the obligation to extradite or prosecute plays in supporting international cooperation to fight impunity has been recognized at least since the time of Hugo Grotius, who postulated

the principle of *aut dedere aut punire* (either extradite or punish): “When appealed to, a State should either punish the guilty person as he deserves, or it should entrust him to the discretion of the party making the appeal.” 425 The modern terminology replaces “punishment” with “prosecution” as the alternative to extradition in order to better reflect the possibility that an alleged offender may be found not guilty.

Basic elements of the obligation to extradite or prosecute to be included in national legislation. The effective fulfilment of the obligation to extradite or prosecute requires undertaking necessary national measures to criminalize the relevant offences, establishing jurisdiction over the offences and the person present in the territory of the State, investigating or undertaking primary inquiry, apprehending the suspect, and submitting the case to the prosecuting authorities (which may or may not result in the institution of proceedings) or extraditing, if an extradition request is made by another State with the necessary jurisdiction and capability to prosecute the suspect.

Extradite refers to the process whereby the custodial state transfers custody of the individual to the other state where the individual will face trial because of the jurisdiction held by that foreign state to try the case. It involves a trial in a foreign jurisdiction, based on the laws of that foreign country. Prosecute refers to a situation whereby the custodial state holds onto the suspect and tries them within its own jurisdiction. Prosecution involves the exercise or assertion of jurisdiction over the suspect by the custodial state. It involves determining whether there is sufficient evidence and trying them based on their laws. According to the Court in the case concerning *Questions relating to the Obligation to Prosecute or Extradite* (Belgium v. Senegal), delay in enacting necessary legislation in order to prosecute suspects adversely affects the State party’s implementation of the obligations to conduct a preliminary inquiry and to submit the case to its competent authorities for the purposes of prosecution. 459 The State’s obligation extends beyond merely enacting national legislation. The State must also actually exercise its jurisdiction over a suspect, starting by establishing the facts.

The International Convention for the Suppression of the Financing of Terrorism (ICSFT)

In 1998, the UN General Assembly began drafting this treaty in response to a French request. According to specific definitions, the 28-article text makes it illegal to provide or collect money with the knowledge or intention that it will be used to carry out a terrorist attack. The Convention adds substantial strength and enforcement opportunities to the network of interlocking conventions on various acts of terrorism created by the international community over the last 30 years. Increasingly, international terrorist activity has become interlinked with other modern scourges, such as drug trafficking and the proliferation of small arms. It is intended that, by impeding the flow of cash to terrorists and by prosecuting and punishing the perpetrators, the Convention will help to suppress future acts of terrorism. States parties to the Convention are obligated to bring their laws into agreement with the Convention, and to develop and implement mechanisms to meet the standards it sets out. The Convention obliges States Parties to prosecute offenders or to extradite them to the parties that suffered from their illegal acts. States Parties are required to cooperate with and assist other States in investigations and preventive efforts.

Resolution 1373 (2001)

Threats to international peace and security caused by terrorist acts-

Resolution 1373 (2001), adopted under Chapter VII following the September 11 attacks, imposes binding obligations on all UN member states to combat terrorism. The resolution requires states to prevent and suppress the financing of terrorism, freeze financial assets of terrorists, criminalize terrorist acts, deny safe haven to those who finance, plan, or commit terrorist acts, and enhance international cooperation in the fight against terrorism. It also establishes the Counter-Terrorism Committee (CTC) to monitor implementation



Resolution 1540 (2004)

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery; decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws; decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of weapons and their means of delivery; decides to establish for a period of no longer than 2 years, a Committee of the Security Council which will report to the Security Council for its examination, on the implementation of this resolution; decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention.

Resolution 2178 (2014): foreign terrorist fighters

Decides that with regard to foreign terrorist fighters, member states shall prevent and suppress recruiting, organising, transporting or equipping; prevent and suppress financing; and prevent travel. Expresses strong determination to consider designations pursuant to resolution 2161 (2014). Requests the Monitoring Team to report to the Committee on the

threat posed by foreign terrorist fighters recruited by or joining ISIL, ANF and all groups, undertakings and entities associated with Al-Qaida.

Resolution 2249 (2015): ISIL/Daesh framework

Resolution 2249 (2015) determines that ISIL (Da'esh) constitutes an unprecedented threat to international peace and security through its violent extremist ideology, terrorist acts, systematic attacks on civilians, destruction and trafficking of cultural heritage, and control of territory in Iraq and Syria. It calls on Member States to take all necessary measures to prevent and suppress terrorist acts committed by ISIL, the Al-Nusrah Front, and other Al-Qaida-associated groups in their territory in Syria and Iraq.

The resolution was adopted following the series of terrorist attacks in Sousse, Ankara, the Sinai, Beirut, and Paris, and urges Member States to intensify and coordinate their efforts to eradicate the safe havens these groups have established.

Through all of these resolutions, the Security Council has always resorted to Article VII of its Charter in imposing general duties upon states regarding terrorism funding, foreign fighter terrorist groups, and the proliferation of weapons of mass destruction by non-state actors, as well as enhanced monitoring through committees and soft law. Yet, it has never seen fit to set out definitive rules regarding the legality of the use of force against terrorist groups, nor to take head-on the issues of state-sponsored terrorism and proxy warfare, or to fully harmonize the issue of counter-terrorism with the requirements of international human rights and refugee law

Resolution 49/60 (1994)

Resolution 49/60 (1994) creates a declaratory approach by endorsing the Declaration on Measures to Eliminate International Terrorism and calling on all states to apply its principles. The main elements of this approach include-An unequivocal recognition that states are under an obligation not to organize, incite, assist in, or participate in terrorist activities in the territory of another state or tolerate such activities within their own territory. An obligation to prevent and combat terrorism “in all its forms and manifestations,” including through guaranteeing that refugee protection is not misused for terrorist ends and that anti-terrorism

efforts respect international human-rights norms. A recommendation to states to accede to existing anti-terrorism treaties, reconcile national laws with international laws, exchange information, and systematically assess the breadth of current legal mechanisms to create a comprehensive approach.



Resolution 2462: The Basics

Adopted in 2019 by the U.N. Security Council, this resolution is important for protecting humanitarian and medical activities



COUNTERTERRORISM FOCUS

This resolution is one of the numerous acts by the Security Council aimed at preventing, suppressing, and punishing acts of terrorism, including requiring States to penalize certain financial support to terrorists (preamble)



INVOKING CHAPTER VII

By invoking Chapter VII of the United Nations Charter, the Security Council signaled that it was making recommendations or deciding measures, or both, to maintain or restore international peace and security (preamble)



NO "BENEFIT" TO TERRORISTS

The Council decided that all States must, in compliance with international law, establish serious criminal offenses penalizing wilfully providing funds and other economic resources to be used for the "benefit" of terrorists ¶15



REQUIRING IHL COMPLIANCE

The Council demanded that Member States ensure that all measures taken to counter terrorism comply with their obligations under international law, including international humanitarian law; IHL protects numerous humanitarian and medical services in armed conflicts ¶¶5, 6, & 24



TAKING INTO ACCOUNT

The Council urged States to take into account the potential effect of measures to counter the financing of terrorism on exclusively humanitarian activities, including medical activities, that are carried out by impartial humanitarian actors in a manner consistent with international humanitarian law ¶24



STAYING SEIZED

The Council decided to remain seized of this matter, which means that it will continue to monitor developments and act in order to further maintain or restore international peace and security ¶38

The United Nations Global Counter-Terrorism Strategy is composed of four pillars, namely:

- Measures to address the conditions conducive to the spread of terrorism.
- Measures to prevent and combat terrorism.
- Measures to build States' capacity to prevent and combat terrorism and to strengthen the role of the United Nations system in that regard.
- Measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism.

Since 2006, the General Assembly has reviewed the United Nations Global Counter-Terrorism Strategy, usually every two years, making it a living document attuned to Member States' counter-terrorism priorities. The review of the Strategy represents an opportunity for Member States to renew commitment to multilateral efforts to prevent and counter terrorism in response to emerging threats and evolving trends of international terrorism.

In 2026, the United Nations General Assembly will conduct the ninth review of the Strategy, marking the 20th anniversary of its adoption as a crucial framework for international cooperation to prevent and counter terrorism. The Secretary-General submitted to the General Assembly at its eightieth session, in February 2026, a report on progress made in the implementation of the Strategy, containing suggestions for its future implementation by the United Nations system, as well as on progress made in the implementation of resolution 77/298, which was adopted by the General Assembly for the eighth review of the Strategy. To support and inform Member States' discussions in advance of the Global Counter-Terrorism Strategy review – and in line with its mandate to provide strategic leadership in United Nations counter-terrorism efforts – UNOCT will develop a series of knowledge products focused on counter-terrorism and preventing and countering violent extremism conducive to terrorism (CT/PCVE)

The 1949 Geneva Conventions and their Additional Protocols are international treaties that contain the most important rules limiting the barbarity of war. They protect people who do not take part in the fighting (civilians, medics, aid workers) and those who can no longer fight (wounded, sick and shipwrecked troops, prisoners of war)

Non-international armed conflicts are provided for and governed by Common Article 3 to the four Geneva Conventions of 1949 and by the Additional Protocol II of 1977 to the Geneva Conventions, which contains twenty-eight articles that complete the guarantees of Common Article 3 for the victims of non-international armed conflicts. The lack of a common legal definition between the 1949 Common Article 3, the 1977 Additional Protocol II, and the jurisprudence of the International Criminal Tribunals has produced a profusion of technical legal commentaries that must be prioritized and summarized. Indeed, the definition of non-international armed conflict is the subject of intense legal debates fed by international jurisprudence, by the diversity of the forms of conflicts since the end of the Cold War and the global war on terror, as well as by the multiplication of non-state armed groups (I; II). This qualification determines the law applicable to these situations (III). Situations of internal disturbance and tension, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature, are not considered to be armed conflicts (APII Art. 1). However, even in such circumstances, the principles of Common Article 3 to the Geneva Conventions, as well as the protection of inalienable human rights, remain in force. In the Tadic Case (IT-94-1-T, 7 May 1997), the ICTY Trial Chamber decided that

an armed conflict exists whenever there is a resort to armed force between States, protracted armed conflict between governmental authorities and organized armed groups or between such groups within a State (para. 561).

To determine the existence of a non-international armed conflict in the sense of the Common Article 3 to the Geneva Conventions, it is necessary to examine two elements of the conflict: its intensity and the organization of the parties to the conflict.

In an armed conflict of an internal or mixed character, these closely related criteria are used solely for the purpose, as a minimum, of distinguishing an armed conflict from banditry, unorganized and short-lived insurrections, or terrorist activities, which are not subject to international humanitarian law” (para. 562).

This interpretation is confirmed in the Musema Case (ICTR) and the Boskovski Case (ICTY) (infra Jurisprudence).

The jurisprudence has therefore retained a minimum level of organization in non-international armed conflict. This minimal criterion should not be confused with the legal debates that surround the role and status of non-state armed groups in the internationalization of conflict.

Additional Protocol II could not, for example, be applied to situations where non-international conflict would spread out over the territory of several State parties or would involve transnational armed groups or foreign groups that are not attached to the State party to the conflict.

International law imposes rules of interpretation of the treaties in accordance with the intention of the authors and in line with their objective. It opposes any interpretation that may lead to an absurd result or one which would be contrary to the objective of the text (*infra*).

The objective of the definition contained in Additional Protocol II was to dispose of objective criteria that would permit a solution to the historic reticence of some States to recognize the existence of an armed conflict on their national territory and the rights of its victims. It would appear, however, that, apart from the threshold of the intensity of violence, which retains an objective aspect, the rest of the criteria of the definition pertain to subjective interpretation and necessitate the availability of material information that may either delay or render impossible the implementation of Additional Protocol II

The Rome Statute

The Court's founding treaty, called the Rome Statute, grants the ICC jurisdiction over four main crimes.

First, the crime of **genocide** is characterised by the specific intent to destroy in whole or in part a national, ethnic, racial or religious group by killing its members or by other means: causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; or forcibly transferring children of the group to another group. Second, the ICC can prosecute crimes against humanity, which are serious violations committed as part of a large-scale attack against any civilian population. The 15 forms of crimes against humanity listed in the Rome Statute include offences such as murder, rape, imprisonment, enforced disappearances, enslavement – particularly of women and children, sexual slavery, torture, apartheid and deportation. Third, war crimes which are grave breaches of the Geneva conventions in the context of armed conflict and include, for instance, the use of child soldiers; the killing or torture of persons such as civilians or prisoners of war; intentionally directing attacks against hospitals, historic

monuments, or buildings dedicated to religion, education, art, science or charitable purposes. Finally, the fourth crime falling within the ICC's jurisdiction is the **crime of aggression**. It is the use of armed force by a State against the sovereignty, integrity or independence of another State. The definition of this crime was adopted through amending the Rome Statute at the first Review Conference of the Statute in Kampala, Uganda, in 2010.

Complementarity: The principle of complementarity governs the exercise of the Court's jurisdiction. This distinguishes the Court in several significant ways from other known institutions, including the international criminal tribunals for the former Yugoslavia and Rwanda (the ICTY and the ICTR). The Statute recognizes that States have the first responsibility and right to prosecute international crimes. The ICC may only exercise jurisdiction where national legal systems fail to do so, including where they purport to act but in reality are unwilling or unable to genuinely carry out proceedings. The principle of complementarity is based both on respect for the primary jurisdiction of States and on considerations of efficiency and effectiveness, since States will generally have the best access to evidence and witnesses and the resources to carry out proceedings. Moreover, there are limits on the number of prosecutions the ICC, a single institution, can feasibly conduct. The statement above conveys a fundamental element of the philosophy and aspiration underlying the complementarity principle. The establishment of an international order wherein national institutions respond effectively to international crimes, thereby obviating the need for trials before the ICC, would indeed be a major success for the Court and the international community as a whole. Of course, it is expected that, in practice, trials before the ICC will remain very important. The sad reality is that national institutions have all too frequently proven unable or unwilling to address international crimes. The statement nonetheless usefully highlights that the Prosecutor's objective is not to "compete" with States for jurisdiction, but to help ensure that the most serious international crimes do not go unpunished and thereby to put an end to impunity. The complementarity regime serves as a mechanism to encourage and facilitate the compliance of States with their primary responsibility to investigate and prosecute core crimes. The failure by states to ratify the Rome Statute greatly limits the jurisdictional capacity of the ICC, giving non-state parties room to avoid being held accountable for war crimes, genocide, etc.

The aut dedere aut judicare model: what it achieved and where it consistently failed

There are important gaps in the present conventional regime governing the obligation to extradite or prosecute, notably in relation to most crimes against humanity, war crimes other than grave breaches, and war crimes in non-international armed conflict. It also notes that it had placed on its programme of work in 2014 the topic “Crimes against humanity”, which would include as one element of a new treaty an obligation to extradite or prosecute for those crimes. It further suggested that, in relation to genocide, the international cooperation regime could be strengthened beyond the one that exists under the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

There may be grounds of refusal that are connected to the offence (e.g. the expiry of the statute of limitations, the failure to satisfy requirements of double criminality, specialty, *nullum crimen sine lege* and *nulla poena sine lege* or *non bis in idem*, or the fact that the crime is subject to death penalty in the requesting State) or not so connected (e.g. the granting of political asylum to the individual or the existence of humanitarian reasons to deny extradition). The degree of specificity of the conditions applicable to extradition varies depending on factors such as the specific concerns expressed during the course of negotiations (e.g. non-extradition of nationals, application or non-application of the political exception or fiscal exception clauses), the particular nature of the offence (e.g. the risk of refusal of extradition based on the political character of the offence appears to be more acute with respect to certain crimes), and drafting changes to take into account problems that may have been overlooked in the past (e.g. the possible triviality of the request for extradition or the protection of the rights of the alleged offender) or to take into account new developments or a changed environment.

UNGA Resolution 49/60 (1994)

Limitations

- Voluntary compliance
- Declaratory based
- Non-binding
- Vague Definitions

- Non-enforceable

UNSC Resolution 1373 (2001)

Even though this was binding , imposing Chapter VII obligations of all UN Member states there were still a few gaps

Limitations

- It still did not provide an acceptable universal definition of terrorism
- The Counter-Terrorism Committee (CTC) monitors, promotes, and facilitates compliance but cannot impose penalties on states that fail to implement the required measures.
- While mandated globally, practical implementation varies significantly based on regional capacity, technical capabilities, and political will.

Comprehensive Convention on International Terrorism (CCIT)

Comprehensive Convention on International Terrorism (CCIT), submitted in 1996 by India in the negotiations of the United Nations General Assembly's Ad Hoc Committee (A/RES/51/210), is still a deadlock situation thirty years later due to a lack of consensus on a universal definition of terrorism among nations. Disagreements lie in whether the convention should include acts committed by national armies during armed conflicts, how to define the "legitimate armed struggle for self-determination" and exclude it from terrorism, and whether the convention should provide any derogations for state-sponsored violence or "state terrorism." These are highly politicized questions dealing with issues of sovereignty, the legacy of decolonization, and the protection of specific military actions. An effective compromise will rely on a limited definition centered around internationally wrongful use of violence against civilians, but with explicit exceptions that exclude lawful uses of military force and armed struggles for self-determination; however, neither has been agreed upon due to issues with labelling acts by militaries and such.

Resolution 60/288

Resolution 60/288 of the UNGA in 2006 established the United Nations Global Counter-Terrorism Strategy (UNGCTS), which was defined by four main pillars, namely addressing the conditions that make terrorism an appealing choice, taking measures to prevent and counter terrorist acts, building capacities for an effective response, and ensuring that all such efforts comply with human rights and the rule of law. The strategy is discussed annually by the General Assembly but lacks real substance since the review mechanism is not really effective because it generates politically driven declarations based on voluntary contributions from member states without any means of enforcement. Although the GCTS played an important role in creating unified policies across the entire UN system, made the concept of human rights central in counter-terrorist policies and fostered practical activities concerning prevention and capacity-building, there is little hope that it will ever provide for a global standard for defining terrorism, obligate states to refrain from proxy wars and support of terrorist groups, and establish a legally binding regime.

FATF

FATF is considered a soft law regime because although it does not operate with binding treaties, it exercises an enormous amount of influence via reputation risk and financial penalties when countries find themselves in the “grey list” or “black list” in regard to their insufficient AML/CTF regimes. Financial measures against terrorist or terrorist supporters, like asset freezes and limitations to using financial services of the world’s banking system, may realistically affect the finances of those organizations and induce the respective governments to update legislation and cooperate on financial intelligence sharing; however, they will never be able to change the decisions of the states that support terrorism in the first place nor differentiate between charities and fronts.

The IIIM Syria (2016)

The IIIM Syria (2016) serves as an example as it demonstrates that there is a possibility for the creation of a quasi-judicial evidence-gathering mechanism within the United Nations framework even without the endorsement of the Security Council. This mechanism was launched as the result of UNGA Resolution A/71/248 that was adopted on December 12, 2016, due to the repeated failure of the Security Council to refer Syria to the International Criminal Court.

Structural conclusion

What all current efforts have in common is an underlying design weakness in that they were formulated to address terrorism as a threat to order and not as a means of establishing an enforceable framework for state sponsorship of terrorism. In other words, all these mechanisms concentrate on preventing terrorist attacks, freezing assets, or protecting evidentiary integrity but not on how sponsorship, surrogate terrorism, and state tolerance can be connected to a set of legal repercussions similar to those outlined in ARSIWA. Consequently, the structure of the present day is one designed to fight terrorism and ensure political stability rather than that of an independent, binding framework that holds sponsoring nations accountable to the same standard as the organizations that they sponsor; instead, the present structure relies upon sanctions, investigations, and other pressures that are determined based on the interests of vetoes and crisis politics. Consequently, the structure of the present day is one designed to fight terrorism and ensure political stability rather than that of an independent, binding framework that holds sponsoring nations accountable to the same standard as the organizations that they sponsor; instead, the present structure relies upon sanctions, investigations, and other pressures that are determined based on the interests of vetoes and crisis politics.

Some important case studies

Case 1: Iran and the “Axis of Resistance”

Summary

- Since 1979, Iran has developed various non-state armed groups, including Hezbollah (Lebanon), Hamas (Gaza/Palestine), the Houthis (Yemen), and factions within Hashd al-Shaabi (Iraq).
- Support includes weapons (rockets, drones, anti-tank missiles, naval mines), finance (estimated at hundreds of millions annually for Hezbollah), IRGC Quds Force training, intelligence sharing, and occasional operational coordination.
- Each proxy has its own political agendas, command structures, and local legitimacy.

Legal issue

- Attribution depends on the standard applied:

- Under Nicaragua (effective control), Iran likely avoids responsibility for many proxy attacks because direct operational orders are usually not public.
- Under Tadić (overall control), Iran's ongoing coordination and material support may meet the threshold.
- Iran presents its support as legitimate resistance (citing Article 51), while many states see repeated attacks on civilians as terrorism.
- Classified intelligence and the political integration of proxies complicate proof.

Why it matters for reform

- Highlights the need to determine whether sustained material support and coordination should result in state responsibility even without specific operational direction.

Case 2: Russia and Wagner / Africa Corps

Summary

- The Wagner Group (now reorganized as “Africa Corps” under the Russian MoD after 2023) acted as a deniable Russian instrument in Syria, Libya, Ukraine, and parts of Africa.
- Support includes state funding, weapons, logistics, GRU liaison and operational coordination, with host governments often compensating Wagner with resource concessions.
- Documented abuses involve mass civilian killings (for example, Moura, Mali) and other alleged war crimes.

Legal issue

- PMCs exist in a legal grey area:
 - ARSIWA Article 4 assigns acts of state organs; PMCs are not automatically state organs.
 - Article 8 (direction or control) applies if Russia had effective control over specific operations.

- Evidence (embedded GRU personnel, Russian air support, material supply) suggests state involvement, but much relies on classified intelligence and investigative journalism.

- Russia's UNSC veto, refusal to engage with ICC mechanisms, and claims of private status create gaps in enforcement and accountability.

Why it matters for reform

- Indicates the need to clarify PMC attribution in ARSIWA or establish treaty norms for the state's use of PMCs, along with clearer enforcement channels that can operate despite veto politics.

Case 3: Pakistan and LeT / JeM (and related networks)

Summary

- Pakistan's ISI has been accused of supporting Lashkar-e-Taiba, Jaish-e-Mohammed, and elements of the Haqqani network, groups tied to attacks in Kashmir, India (2008 Mumbai), and Afghanistan.

- Alleged support includes financing, weapons, safe haven, liaison officers, and selective prosecution or lack of prosecution for leaders.

Legal issue

- Attribution challenges arise from covert intelligence influenced by bilateral politics:

- Under effective control, proving ISI-directed operational orders is tough; evidence often relies on intelligence disclosures and witness testimony (for example, David Headley).

- ARSIWA lacks a clear rule that holds states responsible for "toleration" or willfully failing to suppress hostile non-state actors from their territory.

- The political climate (India-Pakistan rivalry, nuclear deterrence) and absence of neutral adjudication hinder prospects for binding decisions.

Why it matters for reform

- Supports the case for adding a due-diligence obligation: failing to take reasonable steps to prevent or punish cross-border attacks could, under certain conditions, lead to state responsibility.

Case 4: United States and the Contras (Nicaragua v. United States, 1986)

Summary

- The CIA organized, trained, funded, and, in specific instances, directly commanded Contra forces fighting Nicaragua's government.
- ICJ findings showed that the US was responsible for actions taken under direct CIA direction (such as harbor mining) but not for broader Contra atrocities where Nicaragua could not prove US effective control over specific crimes.

Legal issue and precedent

- Nicaragua set the effective control standard: specific operational direction is necessary to attribute acts of non-state actors to a state.
- This decision established a high attribution standard that allows states to fund and equip proxies while maintaining plausible deniability for particular atrocities.
- The ICTY later adopted a lower overall control test in Tadić, creating a legal divide; the ICJ reaffirmed strict effective control in later rulings (such as Bosnia v. Serbia).

Why it matters for reform

- Nicaragua remains a key point for those defending high attribution thresholds. Its enforcement failures illustrate the limits of judicial remedies against powerful states.

Comparative analysis cross-cutting findings

- Standards: effective control (Nicaragua) sets a high evidentiary standard; overall control (Tadić) is lower and fits many modern proxy relationships better.
- Gaps beyond standards:
 - PMCs and quasi-private actors are poorly addressed by ARSIWA.
 - ARSIWA does not clearly deal with state "toleration" or failure-to-suppress.
 - Classified intelligence often provides the best evidence but is seldom admissible or publicly available in international forums.
 - Geopolitical factors (vetoes, jurisdictional limits) hinder enforcement.
- Policy trade-offs: higher thresholds protect state sovereignty and reduce politicized charges; lower thresholds or new obligations increase accountability but risk misuse and diplomatic conflicts.

Practical reform options for the committee

- Adopt an "overall control plus" rule: continuous material support combined with operational coordination and integration counts for attribution when specific operational orders can't be proven.
- Establish a clear ARSIWA provision on PMCs: define criteria for attribution (state funding, operational integration, embedded state personnel).
- Add a due-diligence obligation: require states to take reasonable actions to prevent their territory or resources from being used for wrongful acts, with defined rebuttable presumptions when states provide ongoing support.
- Create an independent, confidential fact-finding mechanism: allow secure handling of classified intelligence to make attribution findings without disclosing sources.
- Expand enforcement pathways: use treaty arbitration, regional courts, or a specialized tribunal for proxy-related state responsibility to lessen reliance on UNSC action.

The Three Eras of State-Sponsored Terrorism and Proxy Warfare

Era One: Cold War Proxy Architecture (1947–1991)

Proxy conflict represents a perennial strand in the history of warfare. The appeal of ‘warfare on the cheap’ has proved an irresistible strategic allure for nations through the centuries.

Proxy wars are defined here as the indirect engagement in a conflict by third parties wishing to influence its strategic outcome. However, this prevents confusion with direct intervention or covert action.

Theoretically, it will be argued that recourse to proxy war has been a perpetual element of modern warfare, and will continue to be so, because of the liberal foreign policy agenda pursued by the West and their Allies. During the Cold War, war by proxy was a key strategy of indirect conflict between the United States and the Soviet Union. The purpose of these proxy wars was to either maintain or change the balance of power between the superpowers/great powers in conflict areas outside the central front in Europe. Within the condition of Mutual Assured Destruction (MAD), both the United States and the Soviet Union sought to avoid direct confrontation between their conventional military forces in regional conflicts out of a fear that it would escalate to nuclear war. The Cold War occurred with the structural conditions of bipolarity based upon strategic and ideological competition between the United States and the Soviet Union. This condition, and the competition it entailed, largely determined the strategies of the United States and Soviet Union. In this condition, both powers engaged minor powers rather than each other directly. This entailed limited, indirect wars via proxy forces to minimize the threat of direct confrontation between the superpowers for fear of escalation. Since the end of World War II, interstate war between major international powers has become highly unlikely as a tool of foreign policy. Instead, as experienced during the Cold War, major powers come into conflict indirectly through third parties in what are local internal conflicts in order to accomplish their national interest. The United States and the Soviet Union used foreign governments and international organizations as proxies, such as during the United Nations operation in the Congo in 1960 and the Angolan Civil war in 1975, to influence and alter the outcome of a local conflict to suit their national interests and alter the regional balance of power.

I. The Bipolar Strategic Logic Underpinning Proxy Warfare

Bipolarity did not stifle interstate conflict between seventeenth-century Britain and France when they were imperial superpowers, yet no Cold War militarized conflict broke out between the United States and the Soviet Union. The reason lies in the unique conditions of Cold War bipolarity; each superpower possessed sufficient nuclear capability to make war too costly to consider. Some scholars place this absence of conflict on the success of US deterrence and containment strategies. Others cite the “stability-instability paradox,” wherein nuclear parity precludes the use of such weapons while still allowing limited conventional conflicts between nuclear-armed states. Others infer that nuclear weapons played no part in Cold War peace at all. On the contrary, the perceived high costs of war in nuclear parity within a bipolar international system actually prevented war between the two. The United States and the USSR chose instead to address ideological differences indirectly by proxy within client states. While these strategies arguably kept the Cold War cold, what prescriptive logic was responsible for superpower decisions to engage in subnational conflict by proxy?

It is worth noting that Cold War proxy conflicts usually took the form of aid provided to either insurgent forces or to those of the state—cash transfers, provision of weapons/technology, and advisory or combat support. While many instances of US and Soviet aid to states in conflict remain classified and thus impossible to account for at present, there are still many where such aid was identifiable. Dozens of subnational conflicts during the Cold War were proxy wars of the United States or the USSR, and their distribution is suggestive. Nearly half of these occurred during the Cold War’s first two decades, when US-USSR competition was on the rise; this percentage declined in the 1980s as Soviet economic support dwindled and US aid to these nations quickly followed suit. So, while the high cost of interstate conflict in the Cold War bipolar system wherein nuclear annihilation was possible led to peace between the great powers, it increased the incidence of subnational proxy conflict via two complementary mechanisms. It provided the superpowers a means to achieve geostrategic goals without the risk of nuclear war while also providing groups within client states the means to achieve their goals, through violence if necessary.



Why did the United States and the USSR engage in Cold War proxy conflict? Realists of the period warned against doing so—involvement in third-world conflicts was detrimental to US interests and did not enhance the all-important balance of power. One possible explanation is that great powers prefer to compete by proxy without direct conflict to achieve their strategic interests and engender goodwill via soft-power strategies. But the historical record does not support this, as great powers have often fought with one another. A more credible explanation is found in the structural conditions that existed in the Cold War international environment. As the United States and the USSR reached nuclear parity, danger of nuclear annihilation successfully deterred both sides from direct conflict. Yet each was driven to spread its ideology to the greatest extent possible, both to maximize alliance pools and achieve real political goals of maximum security. A combination of realist political goals, coupled with the reality of nuclear parity, moved each away from direct confrontation and toward goal achievement via proxy conflict in client states.

II. US and Soviet Doctrines - Afghanistan, Nicaragua, and Angola

The Soviet–Afghan War killed 1.3 million people, with a million more turned into refugees – a third of the nation’s pre- war population. The end of this conflict coincided with the sudden and

unexpected end to the entire Cold War, causing, in the words of the 9/11 Commission Report, a

‘Trauma in the foreign policy and national security community both in and out of government’. This policy malaise was perfectly encapsulated by the way in which the US attempted to extract itself from this particular proxy war. The jihadist diaspora that was created at the end of the Afghan war ignited a new wave of pan- Arab fundamentalism. By walking away from the mujahedeen groups after the Cold War, the US was complicit in creating a transnational force of Islamist militants who went on to establish terrorist movements around the world, and indeed for permitting Afghanistan to slide into civil war and doing little to alleviate Afghanistan’s poverty levels, which were amongst the highest in the world.

In addition to the civil war and continuing poverty, one of the most significant consequences of US inattention to Afghanistan after 1989 was the sanctuary now on offer to an international

array of jihadist militants. By the mid- 1990s the Taliban had won control of large swathes of the country, including the capital Kabul. As a result, Afghanistan was established as a safe haven for Islamic fundamentalism, compounded by the fact that the US had no clear policy formulated to deal with the issue. The Americans had given little thought to the repercussions of their proxy war strategy. Although the Americans may have helped end one war, they unwittingly sowed the seeds for the start of another one, which was made startlingly clear on 11 September 2001. As easy as it may be to apportion this blame, it must be acknowledged that America ‘was doing what great powers have done throughout history, in order to survive as great powers: pursue its strategic interests’. Such strategic interests are pursued indirectly, frequently in secret, inevitably for reasons of power and by using the personnel of other states or non- state actors to vicariously fulfill those interests for them.

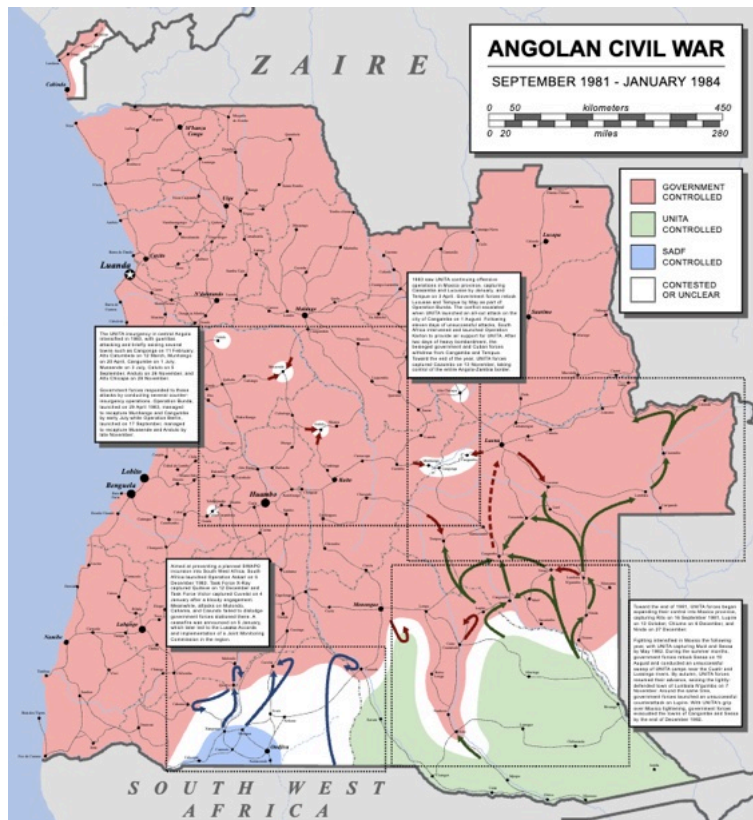
The USA had supported the ruling Somoza family in Nicaragua since the 1930s, when US marines had been sent to stabilize the nation against the threat of a communist takeover. In 1979 the pro-communist Sandanista rebels overthrew the last Somoza ruler and set up a government. The US response at first was for President Carter to give financial aid to the new Sandanista government to try to stop it falling under the influence of the USSR or Cuba. When Ronald Reagan succeeded Carter as US President in 1981, he stopped aid to the Sandanistas, who then turned to communist Cuba for support. Reagan began to support an anti-communist rebel group – the Contras - with money, arms and military training. When, in 1984, the US Congress refused to approve further cash to support the Contras, a deal was struck by US Lieutenant Colonel Oliver North to sell arms to Iran and use some of the money raised to fund the Contras.

During the 1970s and 1980s, both the USA and the USSR got involved in the Civil War in Angola, keen to control the country’s diamond and oil reserves.

Each superpower backed the side closest to their political ideology, with the USSR backing the socialist independence movement, the MPLA (People’s Movement for the Liberation of Angola), and the USA backing the anti-communist FNLA (National Front for the Liberation of Angola) and UNITA (National Union for the Total Independence of Angola).

In 1976 the MPLA won the upper hand and set up the People’s Republic of Angola, signing a friendship deal with the USSR. The USA continued to support the UNITA rebels with aid and

smuggled weapons into Angola via South Africa. Estimates of battle deaths exceed half a million.



III. Legal Legacy: The Nicaragua Judgement and the deliberate construction of a permissive attribution standard

The most important legal development of the Cold War proxy era emerged from the ICJ's judgment in *Nicaragua v. United States*.

On April 9, 1984, Nicaragua had initiated proceedings against the United States of America in the International Court of Justice. The action was based on the allegation that the United States had supported by its policy and actions a mercenary army, the contras, in launching attacks on the territory of Nicaragua, with the purpose of overthrowing the (Sandinista) Government of Nicaragua. By funding and assisting, covertly and overtly, the "contra" movement, the United States was using - according to Nicaragua - armed force against Nicaragua in violation of the international obligations of the United States under general international law as well as under the United Nations Charter, the OAS Charter and the bilateral United States-Nicaragua Treaty of Friendship and Commerce. In particular, it was

submitted by Nicaragua that the United States was violating the prohibition of the use of force in international relations and the parallel rule on prohibition of intervention. As a first step, the Court had decided on the interim measures requested by Nicaragua. By Order of 10 May 1984, the Court had indicated some provisional measures. By Order of 15 August 1984, the Court had then rejected the declaration to intervene under Article 63 of the Statute made by El Salvador. At the end of the first phase, the Court finally had decided in its judgment on jurisdiction and admissibility of 26 November 1984 that it had jurisdiction under Article 26 para. 2 of the Statute. As to the facts, the Court found it established that some incidents were directly imputable to the United States. For example it was clear, after examining the facts, that, on a date in late 1983 or early 1984, the President of the United States had authorized a U.S. Government agency to lay mines in Nicaraguan ports. Accordingly, in early 1984 mines had been laid in or close to several ports of Nicaragua, either in Nicaraguan internal waters or in its territorial sea or both, and they had been laid by persons in the pay and acting on the instructions of the U.S. agency, under the supervision and with the logistic support of United States agents.

Directly attributed to the United States were also several operations against Nicaraguan oil installations, a naval base and other facilities of the State of Nicaragua, carried out as direct actions of United States personnel, or of persons in its pay. Although it could not be proved that any United States military personnel took a direct part in the operations, United States agents undoubtedly participated in the planning, direction and support of these operations. As regards the principle of non-intervention, the Court found it clearly established that the United States intended, by its support of the 'contras', to coerce Nicaragua in respect of matters in which each State is permitted to decide freely. It considered that if one State, with a view to the coercion of another State, supports and assists armed bands in that State whose purpose is to overthrow its government, that amounts to an intervention in its internal affairs, whatever the political objective of the State giving support. Basing its further reasoning on the conclusion that intervention in the internal affairs of another State does not produce an entitlement to take collective counter-measures involving the use of force, and that the acts of intervention of which Nicaragua was accused could only have justified proportionate counter-measures on the part of the State which had been the victim of these acts, the Court stated that there was no justification for counter-measures taken by a third State, the United States.

The Court therefore found, by 12 votes to 3, that the support given by the United States to the military and paramilitary activities of the 'contras' in Nicaragua, by financial support, training, supply of weapons, intelligence and logistic support, constituted a clear breach of the obligation under customary law not to intervene in the affairs of another State. With regard to the form of "indirect" intervention which Nicaragua saw in the taking of certain economic sanctions, however, the Court felt unable to regard such action as a breach of the customary law principle of non-intervention. Also by 12 votes to 3, the Court decided that the direct attacks on Nicaraguan ports, oil installations etc., the unauthorized overflights of Nicaraguan territory and the mining operations in Nicaraguan ports infringed the principle of respect for territorial sovereignty. The laying of mines in or near Nicaraguan ports additionally was qualified as constituting an infringement, to Nicaragua's detriment, of the freedom of communications and of maritime commerce. Concerning the mining operations, the Court further decided, by 14 votes to 1, that the United States, by failing to give notice of the existence and location of the mines laid by it, was responsible for a breach of customary principles of international humanitarian law. Also constituting a breach of its obligations under the general principles of humanitarian law was the publication and dissemination in 1983 of a manual entitled "Operaciones psicológicas en guerra de guerrillas", since by virtue of the general principles of humanitarian law the United States was bound to refrain from encouragement of groups engaged in conflict to commit violations of the humanitarian minimum standard laid down in Article 3 common to the four Geneva Conventions.

However, the Court simultaneously established a highly restrictive attribution standard. To hold a state directly responsible for the actions of a proxy force, the ICJ required proof of "effective control" over the specific operations in which violations occurred. This meant that financing, training, arming, equipping, or organizing a proxy group were insufficient on their own to legally attribute all proxy actions to the sponsoring state. Instead, attribution required operational control over the particular act.

IV. The central irony of the Cold War legal framework

The central irony of the Cold War legal framework lies in the profound contradiction between the idealistic, universalist principles enshrined in new international institutions (like the UN Charter) and the reality of a global legal order that was systematically manipulated to serve

the ideological and strategic imperatives of two warring superpowers. While the postwar era aimed for "peace time unarmed warfare" through diplomatic and legal channels, international law was effectively deformed to enable, rather than prevent, systemic conflict, proxy wars, and severe human rights violations. Despite a massive increase in international treaties and humanitarian law, both sides frequently violated these norms when they clashed with national security interests, leading to "parallel" realities of high-minded legal obligations and brutal realpolitik on the ground. A strict attribution doctrine would have criminalized core Cold War strategies, expanded liability for covert operations, increased escalation risks and constrained geopolitical competition. As a result, international law evolved cautiously and ambiguously in this domain. This permissive structure did not disappear after 1991. Instead, it became the foundation for post Cold War hybrid warfare, state-sponsored militancy, and contemporary proxy networks operating across the Middle East, Africa, Eastern Europe, and cyberspace.

Era Two: Post-9/11 Counter-Terrorism Architecture (2001–2011)

The events of September 11 fundamentally altered the framework of global security. The bipolar proxy competition of the Cold War transitioned into a worldwide counter-terrorism model focused on non-state violence, transnational extremist groups, intelligence collaboration, and pre-emptive security strategies.

I. Resolution 1373 and the globalization of Counter-Terrorism Law, and its structural limitations as an accountability instrument

The adoption of Security Council resolution 1373 (2001) introduced a significant new dimension to international counter-terrorism law by requiring all Member States to criminalize various acts associated with terrorism, as well as with the participation in the financing, planning, preparation, or perpetration of such acts. The resolution emphasizes the need to bring terrorists to justice through effective criminalization and requires that the punishment duly reflect the seriousness of such acts. When Security Council Resolution 1373 (2001) was adopted it attracted a great deal of attention because of its revolutionary character. For the first time, the Security Council (SC), pressed by the need to answer terrible terrorist attacks, adopted a clear legislative role by establishing general obligations disconnected from

any particular conflict for all States. The emotional environment created by the 9/11 events helps to explain this innovative move that aroused the criticism of those who conceived the SC as a mere executive branch. The singular organic structure established to supervise the implementation of the Resolution also offers an interesting testing ground to analyse future trends of global governance to safeguard common universal interests. Res 1373 divides the obligations that it imposes on States into three sections. The first section of its regulatory part contains a series of compulsory measures against terrorism financing. The second section, also mandatory, spells out different types of measures to fight against terrorism. A third section contains another set of general counter-terrorist measures, but states are just 'called upon' to adopt them. The Resolution also created a Counter-Terrorist Committee (CTC) to supervise its implementation. In practice, however, the fact that the CTC has simultaneously encouraged the implementation of all these measures in a cooperative way, and their varied degree of application depending on the economic or political circumstances existing in each country, have resulted in a blurring of the different legal nature of the obligations set out in the above-mentioned three sections.

The activation of political, material and technical resources against terrorism articulated around Res 1373 has substantially improved States' capacity to fight this scourge, above all raising the ability of those that were previously less sensitive to their responsibility in this field. A quick look at the ratification figures of the 16 main international counterterrorist conventional instruments reveals the impressive progress achieved in the last decade on the normative level. Although the ratification of treaties and the enactment of laws are not always followed by their proper implementation, the widespread articulation of coherent legislative frameworks (where there were none before) has to be qualified as a legal accomplishment and as an unprecedented success in the field of international criminal cooperation.

However, as has been noted before, the correct and full implementation of these norms is much more difficult to achieve. The lack of political will and/or the scarcity of material resources lead to poor results in the fight against terrorism on many occasions and this should avoid any overoptimistic analysis. From a sectorial perspective, there are three fields in which the situation is far from satisfactory:

a) The full implementation of the *aut dedere aut judicare* principle needs further efforts that will take time. Extradition continues to be a complex procedure that requires some degree of compatibility between the legal systems of the States concerned and still in that case political

or trust considerations can easily interfere with it. Even if the principle is enshrined in the national legal system, numerous technical obstacles may impede in practice its application. A certain harmonization of criminal laws, in particular with regard to terrorist offences, and a worldwide proliferation of extradition and judicial cooperation agreements seem necessary before we can envisage significant progress on this matter, as many States tend to be less efficient prosecuting terrorist offences perpetrated abroad when extradition is not possible.

b) Every State desires to control effectively its frontiers for many reasons (to fight smuggling, drugs or arms trade, illegal immigration, endangering endemic species, etc.), but no country has ever managed to seal its borders perfectly and many of them simply do not have presence in ample parts of their frontier perimeter for lack of resources. In this field we can only expect progress to be slow and dependent on the means available.

c) The prevention and prosecution of terrorism financing demands a high degree of technical expertise and material resources that are not easily available or that do not fit with the uses of the informal economy prevailing in many countries. The CTED, together with other international bodies, has organized a great number of workshops both at universal and regional levels, and has made an impressive effort of technical assistance. Nevertheless, while recognising that relevant progress has been made on this subject, the new payment methods, informal transfers, cash payments and the misuse of non-profit organizations still provide numerous channels of funding to terrorists who, besides, do not need great quantities of money to perpetrate their attacks.

The passing of time has shown the limitations of the SC legislative activity beyond the doctrinal debate. Reality has imposed its constraints in the implementation of supranational law at the universal level. With the present experience and from a transversal perspective, the main obstacles for the incorporation of Res 1373 into national law and practice can be summarized as follows:

a) Budgetary constraints vis a vis development or other political priorities. The successful implementation of counter-terrorist laws and policies may be very expensive and demand considerable human resources. The policing of the internet or the tracking of financial transactions involves a great deal of work of highly skilled personnel and constant and permanent training, while the vigilance of frontiers usually implies the acquisition of costly equipment. A State may report having created a legal and institutional infrastructure against terrorism that formally meets the requirements of Res 1373 and yet fail to enforce the law for

lack of funds or expert human resources. This is the case in many countries, and especially in those with pressing needs derived from health or food shortages or suffering an armed conflict.

b) Obstacles to international information sharing. The exchange of information between different jurisdictions has proved to be one of the most useful mechanisms to prevent (and prosecute) terrorist attacks. Therefore, several instruments that facilitate the exchange of data between States have been created, such as the Egmont Group, and several institutions have established common databases to facilitate the inter-State sharing of information (e.g. Europol or Interpol). However, the need to protect the sources of information, or the political mistrust between different governments continue to pose a considerable obstacle to the swift exchange of anti-terrorist information, sometimes even between allied countries.

c) Traditional obstacles to international cooperation in criminal matters. There are close connections between many terrorist groups and transnational organized crime, as the former may obtain financing and material resources (arms, false identity documents, etc.) to commit their attacks in a symbiotic relationship⁹⁰. In fact, international cooperation against terrorism is just a kind of international criminal cooperation⁹¹ and thus suffers from the same technical and political obstacles (e.g., cumbersome extradition procedures, difficulties for international judicial cooperation). In parallel, the concealment of terrorism within the much broader flux of international criminal relationships further complicates its detection.

d) The lack of a worldwide definition of terrorism. Res 1373 did not make a definition of terrorism as this is a contentious issue that divides the international Community and any debate on this matter would have aborted the quick adoption of the Resolution. This disagreement appears as the main obstacle for the elaboration of a comprehensive international convention on international terrorism in the UN. The attempt of the SC to fill this gap with its own definition of terrorism in SC Res 1566 (2004) was ignored because it failed to gain international consensus.

e) Lack of political thrust by the SC and the CTC in counter-terrorist cooperation in recent years. Although this may be an intended move to de-politicize cooperation against terrorism in the UN, it may also show that the main countries in the SC feel that political cooperation against terrorism has reached its limit within the UN system. In any case, the truth is that the activity of the CTC has become progressively more diplomatic, with the CTED developing a technocratic leading role in the SC activities. This lowering of political direction may explain

the creation in 2011 of the GCTF that lacks the legitimacy, diversity and universal projection of the UN, but that allows donor countries to address their political priorities in counter-terrorist cooperation flexibly and speedily. It cannot be disregarded that initiatives of this kind end up damaging the leadership and credibility of the SC counter-terrorist policy even if this is not their intention.

II. The “Global War on Terror paradox: states fighting terrorism while sponsoring it elsewhere

For many terrorist groups, a state’s tolerance of or passivity toward their activities is often as important to their success as any deliberate assistance they receive. Open and active state sponsorship of terrorism is rare, and it has decreased since the end of the Cold War. Yet this lack of open support does not necessarily diminish the important role that states play in fostering or hindering terrorism. At times, the greatest contribution a state can make to a terrorist’s cause is by not policing a border, turning a blind eye to fundraising, or even tolerating terrorist efforts to build their organizations, conduct operations, and survive. Passive support has a different set of motivations and a different set of solutions than does conventional state assistance. Regimes may turn a blind eye for a variety of reasons, including strong popular support for the terrorist group’s cause, a lack of direct threat, and limited costs to the government that tolerates the terrorists’ activities—and at times all three. Passive support for terrorism can contribute to a terrorist group’s success in several ways. Passive support often allows a group to raise money, acquire arms, plan operations, and enjoy a respite from the counterattacks of the government it opposes. Passive support may also involve spreading an ideology that assists a terrorist group in its efforts to recruit new members. Passive support may be a more intractable problem than open support for terrorism. Passive support introduces new actors beyond the supportive regime into the counterterrorism equation, several of which are not typical interlocutors for states. Diasporas, for example, often play a vital role in passive support. In addition, public opinion plays a vital role in motivating passive support.

Many of the measures used to fight state sponsors such as sanctions or military strikes would even prove counterproductive, alienating an already hostile populace when better solutions might involve wooing popular sympathy. Outside governments can affect these motivations by trying to sway supportive populaces against the terrorist group and by imposing costs on the government for failing to act, as well as for action. However, it is often difficult for

outside governments to convey the necessary sense of threat or to sway domestic opinion sufficiently to change a government's tolerance of terrorism, particularly if the group does not pose an immediate danger to the regime that tolerates its activities. Lack of counterterrorism capacity is linked to passive support, but it is not identical to it. Some governments simply cannot act. However, many governments do not develop their police forces, strengthen counterterrorism laws, increase intelligence, or otherwise develop counterterrorism capacity because they do not see terrorism as a serious problem or due to sympathy for the terrorists' cause. Outside powers, however, can have a tremendous impact on counterterrorism capacity, both through direct assistance and by pressing the government to improve its ability to fight terrorism.

Pakistan, for instance, assisted al-Qa'ida by allowing other militants it backed in Kashmir and Afghanistan to work with the organization, thus providing it with additional manpower and tremendous freedom of action. For Pakistani leaders, turning a blind eye to al-Qa'ida was a means of directing the global jihad against India's rule in Pakistan and to furthering Islamabad's interests in Afghanistan. Over time, support for al-Qa'ida became bound up in the regime's legitimacy, as Islamist groups with close ties to al-Qa'ida became increasingly powerful in Pakistani politics. In the face of heavy U.S. pressure, Pakistan turned against al-Qa'ida after September 11. However, its efforts to crush the organization remain fitful at best, particularly in areas where the organization is tied to important domestic actors in Pakistan itself. Pakistan's links to al-Qa'ida cannot be separated from Islamabad's efforts to support militants in Kashmir against India and its relationship with the Taliban. Pakistan's agenda in both regions depended on militant groups that leaned heavily on al-Qa'ida for support. Pakistan was simultaneously an active supporter of terrorist groups in Kashmir and a passive supporter of al-Qa'ida. For Islamabad, the latter served the former: by allowing al-Qa'ida to operate with little interference, the regime could serve its broader goals in Kashmir and use the jihadists to augment its own deliberate and massive support for various groups active in Kashmir. In both instances, Pakistani leaders appear to have tolerated al-Qa'ida, hoping to exploit the movement for their own purposes. Numerous regime figures active in Pakistan's policy toward Afghanistan and Kashmir may have interacted with al-Qa'ida to advance Islamabad's interests in these areas. Even more important, Pakistani officials knowingly allowed numerous substate groups, particularly Islamist ones, to work with al-Qa'ida with regard to Kashmir and Afghanistan.

III. Extraordinary rendition and black sites as forms of state-sponsored violence

Immediately following the 11 September 2001 attacks, the US government decided that a key component of its 'war on terror' would include covert international CIA action targeting 'high-value targets' for lethal use of force or detention for intelligence-gathering purposes. On September 17, 2001, President Bush signed a classified Presidential Memorandum of Notice granting the CIA authority to detain terrorist suspects and to set up secret detention facilities (sometimes known as 'black sites') outside the US where it could subject 'high-value detainees' (HVDs) to 'enhanced interrogation techniques'. The result was an innovative, systematic and complex programme of 'extraordinary rendition', operated by the CIA, designed and authorised at the highest levels of the Bush Administration, and made possible by a global network of cooperation and support.

'Extraordinary rendition' involved the state-sponsored abduction from one country, with or without the cooperation of the government of that country, and the extra-judicial transfer to another country for detention and abusive interrogation outside the normal legal system. The most widely known cases of extraordinary detention were known to have been exercised by the CIA, where the subject was abducted from one country, followed by their detention in secret CIA 'black sites' overseas - such as Guantanamo Bay and Bagram - or in foreign detentions, and subsequent interrogation. The detainee is allegedly stripped, subject to a body cavity search, photographed naked, dressed up in diapers, and purportedly beaten during the process. Following that, they would be restrained with handcuffs, ankle shackles and chains, blindfolded and ears covered in order to lose their sensory perception, and finally placed aboard an aircraft. In the detention sites, the detainee would be subject to other various types of torture (or, as defined by President George W Bush, 'alternative set of procedures'), such as beatings, sexual abuse and electric shocks, while often not being formally charged with any crime or granted access to lawyers, to their governments or to anything in the outside world.

Extraordinary rendition may represent the nadir of the descent into international illegality of the 'war on terror'. It not only involved serious criminality, but a scheme specifically designed and meticulously carried out to nullify the effect of the law – removing entirely its protection, avoiding oversight and leaving no trace, and permitting no prospect for accountability. It was shaped around a policy of systematic torture, a violation of the most firmly enshrined prohibitions in international law. The ERP embodied and epitomised the

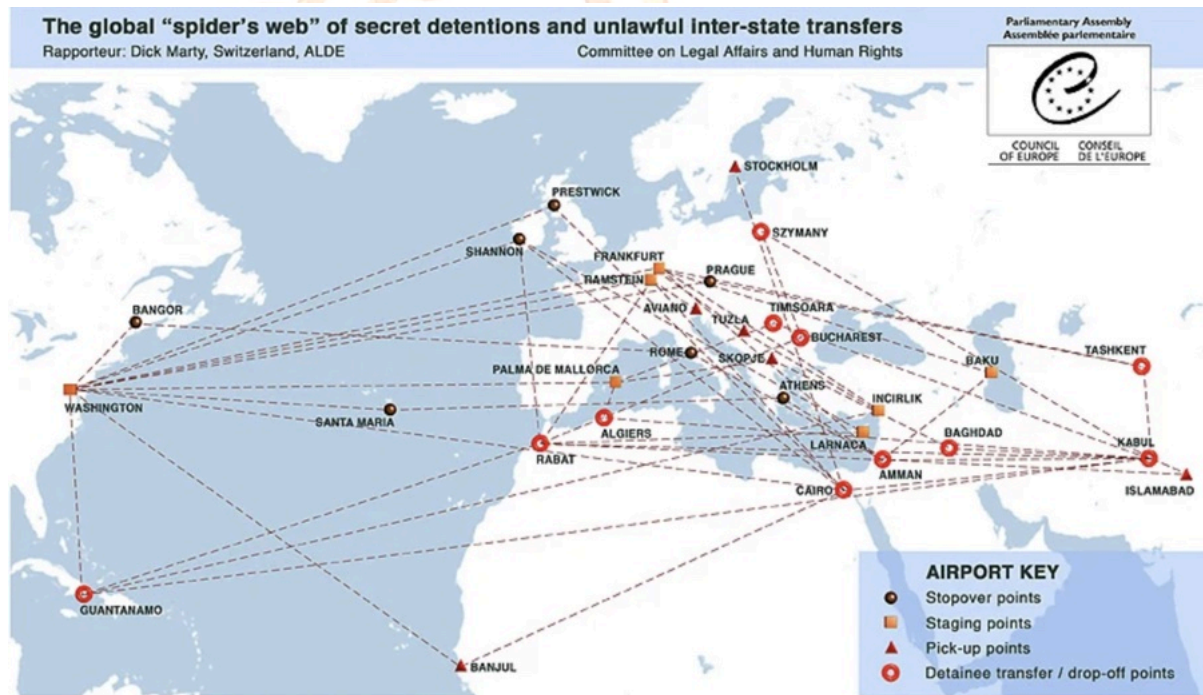
dehumanisation of individuals and their reduction to objects of 'intelligence' value, pursuant to the all-consuming end of intelligence-gathering.

When it comes to extraordinary renditions and secret detentions, a number of international human rights law violations are implicated, such as the right to personal liberty and security, the prohibition to torture, the right to due legal process and to fair trial, and, at times, the right to life. Except for situations of state of emergency, when some derogations are allowed, states must entirely fulfil their obligations under international human rights law, which includes inter alia: the right not to be deprived of liberty unless for reasons prescribed by law and under a proceeding governed by it; the right to be informed, in a language he or she understands, of the grounds for detention and to be promptly notified of the charges against him or her; right to have access to his or her family and medical assistance; right to be brought before a competent court; the right to be tried within a reasonable time; right to be informed of his or her right to consular assistance; right to access to a lawyer. However, even in situations of most serious concerns threatening the life of the nation, some rights are absolute and cannot be derogated. For instance, the right to not be detained for reasons that are not prescribed by law, the right to be informed of the reasons for the detention, to the access to a lawyer, and, if applicable, to family, medical and consular assistance, to time limits to detention pending trial, to judicial review of the detention, as well as to be treated with humanity and respect for human dignity, which includes the right not to be ill-treated or tortured.

It is important to notice that both international human rights law and international humanitarian law absolutely prohibit inhumane treatment and torture. As such, during peace or armed conflict, detainees must be kept in a facility which respects their physical and mental attributes. As the prohibition of torture or other inhumane, cruel or ill-treatment is absolute and non-derogable, any information obtained under torture or ill-treatment should not be used in court. Nonetheless, as pointed out by the UN Special Rapporteur Philip Alston, not only were terrorist suspects held in Guantánamo subject to degrading and inhumane treatment, including torture, but also the information obtained through this method was used as evidence by the Military Commission Act.

Furthermore, international human rights law imposes that people may be detained only in places officially recognised as a detention place, which renders secret detention places, such as 'black sites' used by the U.S. unlawful. In addition, even if the forced transfer of

individuals is not prohibited under international law, customary international law imposes several limits to it, for instance, the prohibition to transfer persons when it would expose them to a real risk of being ill-treated or worse in the receiving state (obligation of nonrefoulement). For that reason, countries that cooperate with the US programme of extraordinary renditions and secret detention risk contravening their obligation of nonrefoulement.



IV. The Arab Spring and the fragmentation of the regional state order

The Arab Spring started in the midst of a deep structural transformation of the Middle East, in the course of which three non-Arab power centres were emerging (Israel, Iran and Turkey), while the group of Arab states were losing relevance in comparison – both as a group and as individuals. Although the group of Arab states has never been a homogenous political (economic, social, etc.) unit, the political rhetoric and the cultural and especially emotional sense of belonging lent power (albeit mostly soft power) to the concept of Arab unity. The individual Arab countries traditionally accepted as leading voices among the other Arab states (Egypt, Iraq, Syria) have lost much of their projected “charm” due to several factors, while among the former “moderate” Arab states Saudi Arabia preferred not to take the lead.

Israel's strategic neighbourhood was swiftly changing: political actors identifying themselves increasingly with Islamic credentials were taking the place filled formerly by mostly secular states. The increasing Israeli disinterest in seriously putting the Palestinian issue on the agenda resulted in Israel's almost total isolation within its geographical region, making it impossible for the Gulf Arab states to join Israel in its attempt to curb the perceived Iranian threat of the nuclear programme.

Iran had possibly reached the limits of its expanding influence, which most notably included the ability to spoil rather than the ability to constructively contribute to the region's security. Its ongoing conflict on the global level over its nuclear programme has added to Iran's relevance and self-perception, while raising concern among its uneasy Arab neighbours in the Gulf.

Turkey seemed to emerge as the benevolent regional power, on the one hand setting the example of a democracy within a Muslim context, highly propagated by the US and the European Union and, on the other hand, acting as a mediator in conflicts in its direct and not-so-direct neighbourhood. Foreign Minister Davutoğlu's zero-problem-with-the-neighbours policy, Turkey's NATO membership, its accession negotiations with the European Union (even if stalled) and its being accepted both by the Arab political elite and the public, for the first time since the dissolution of the Ottoman Empire, clearly boosted its position.

The external Middle Eastern power, the United States, was rapidly losing sympathy, in which the foremost element was its unconditional stand by Israel and also unprecedented influence in the region. While still the global superpower, the individual interests of the regional states and the region's own dynamics have come to overrule or even counter US interests. This included the fast deteriorating Turkish-Israeli relations and the inability to forge an alliance countering the perceived Iranian nuclear threat.

The role and the capability of the European Union to influence events, in spite of the already three layers of institutionalized cooperation within the Mediterranean basin (the EMP, the ENP and the UfM), were declining. Although its attraction on a personal level was high (as reflected in the public opinion polls), due to the financial crisis even its ability as the "economic giant" was losing credibility. Politically (as a "political dwarf") it could never gain

a strong position (as reflected, for example, by the southern participation, or the lack thereof, on the 10th anniversary of the Barcelona Process).

The Arab Spring gave a new impetus and possibly a new direction to the transformation of the region, by the very fact that the “people” became mobilized and Islam officially entered politics. But the developments were not always and not necessarily induced by the Arab Spring only, although they may have been influenced by it. The main strategic trends influencing the transformation were the proliferation of weak states and the withdrawal of US troops. As a result, the internal dynamics of the region have become more important than the interests of the external powers, which have increasingly lost the power to influence the developments.

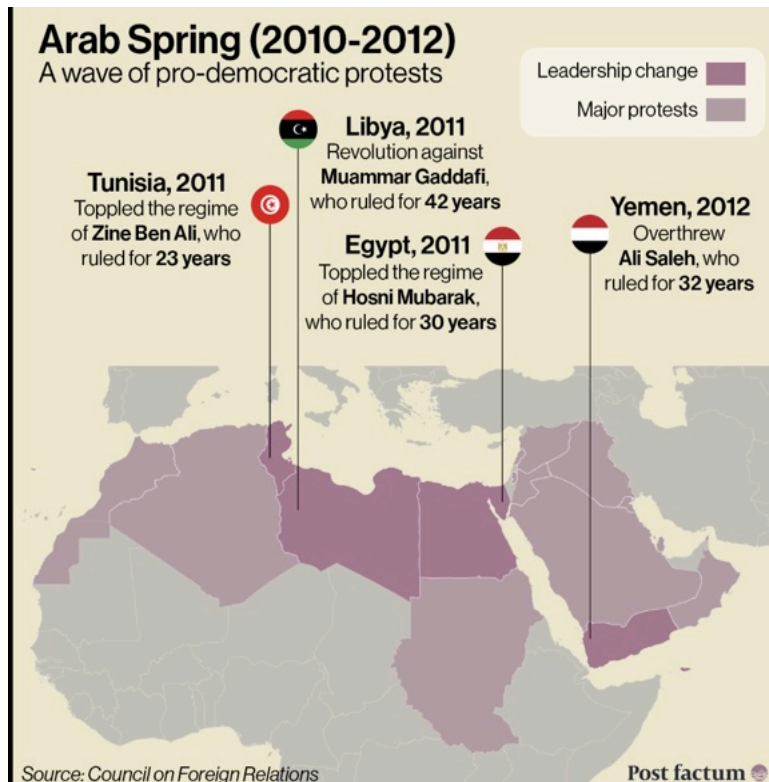
The most unforeseen element in the Arab Spring was precisely the “people”, who, although in reaction to the long well-known serious public grievances, took to the streets and by peacefully demonstrating (in Tunisia and Egypt, but initially elsewhere too) achieved the departure of the dictators. Whether the “spread of democracy” initiatives by the US and the European Union had any impact over the years is difficult to say. However, the very fact that the Arab Spring started as an indigenous grass-roots democratic exercise also meant that if the “people” did not organize themselves into a political force, they would soon disappear from the political scene as a political actor. Although they would still retain the ability to influence politics as the controversy evolving in Egypt over the power of the President shows, it is increasingly clear that demonstrations are no substitutes for political organization and programmes covering the wide range of issues a government has to manage, even if the rhetoric of “reform” and the increased attention to public opinion have changed the political scene.

Ultimately, the “people” could not become part of the real sphere of political decisionmaking in the traditional Arab social order, yet any government will have to be careful to take public opinion into consideration. It may be argued though that this coincides with and complements the Islamic sensitivity to public needs and the increasingly Islamic character of the governments (both in the Arab Spring states and elsewhere). So, while in a way the “people” could not become real political actors, they and the satisfaction of their needs have become an important factor on the agenda of any regime or government.

The transformation of the Middle East and the Arab Spring seem to be finally and definitively reshaping the post-colonial regional order in the Middle East, which started to erode following the end of the Cold War. The basis of the emerging regional order will still be the nation-states, but the idea of several Arab states snowballing into one Arab political unit seems to be a closed chapter. The different Arab states have come very close to the European concept of nationstates; therefore, politically the notion of “Arab unity” has been taken over by a kind of historically, culturally and emotionally based “Arab alliance” or “Arab cooperation” over certain issues, based on coinciding interests. The Islamist parties in government, mostly the different local organizations of the Muslim Brotherhood, show no sign of attempting an “Islamic caliphate”, even if they are accused of cooperation based on shared values across the political borders, which seem to undergo transformation themselves. The transformation in the region carries the potential of the disintegration of some states, either formally (the Sudan), or de facto (the Kurdish regions in Iraq and most recently in Syria).

The two major strategic trends defining the new regional order are the proliferation of weak states and the withdrawal of US troops from the region. The balance of power in the region has been changing fast, not because some states have become stronger but because they have become weaker; in other words, it is their relative balance that has changed. In consequence, five power centres can now be distinguished in the region: besides Israel, Iran and Turkey, Egypt and Saudi Arabia have re-emerged, partly reconstituting a former balance. At the same time, such “traditional” power centres among the Arab countries such as Iraq and Syria have

temporarily lost weight, with the potential of a comeback only in an uncertain medium..



Era Three: Fragmented Multipolar Proxy Warfare (2011–present)

I. Multiple simultaneous state sponsors operating in overlapping events

There has been a resurgence of interest in recent years in proxy warfare, prompted in part by concerns such as state support to terrorist groups in the wake of the September 11, 2001, attacks; Iranian-backed Lebanese Hezbollah's relative success against the Israeli Defense Forces; and Russia's support for the Donetsk People's Republic and Luhansk People's Republic in Ukraine (marked by the conflict there beginning in 2014). The implications of proxy wars for U.S. defense planning are, however, still highly contested.

While some states may be motivated to engage in proxy warfare because of adversaries or threats, others may be inspired by alliance considerations. Alliance motivations could come in various forms. In some contexts, proxy relationships begin because an external state has come to the defense of a long-standing local ally in need by supporting it with arms, advisers, funding, and more. Iranian and Russian support for the Bashar al-Assad regime in Syria, U.S. support for the Iraqi government following the rise of the Islamic State of Iraq and Syria

(ISIS), and Saudi Arabia's support for the ousted Hadi regime in Yemen are some examples of this dynamic. In another alliance dynamic, a state may bandwagon with an ally that has already intervened to curry favor with that ally. Russia's support for forces in Libya, for instance, allows it to enhance its military cooperation with Egypt and the United Arab Emirates. Other states may avoid supporting warring parties altogether because doing so would upset a regional ally with a stake in the conflict.

Over time, the transition from binary rivalry to multipolar conflict is what has led to the increased overlapping of structures, fluid alliances, fragmented chains of command, and shifting interests, which has led to the involvement of even more states, leading to the risk of increased escalation.

II. The Wagner Group Model and what it revealed about legal gaps

In recent years, the alarming scale at which proxy actors (also referred to as 'proxies') have engaged in armed conflicts and counter-terrorism (CT) contexts has generated serious concerns. The use of proxies indeed has the potential to increase the intensity of a conflict, undermine peace efforts and prolong conflicts, and result in widespread human rights abuses, as observed in several African countries. Such concerns have become particularly acute in relation to Russia's Wagner Group (henceforth also referred to as 'Wagner').

Since its emergence in the context of Russia's annexation of Crimea in 2014, the Wagner Group has operated in multiple countries, supporting Russia's intervention in Syria and particularly extending its grip across the African continent. Wagner's activities in Africa have included backing Khalifa Haftar's Libyan National Army (NLA) in Libya, providing training for local security personnel, protecting gold sector investments, and supporting the paramilitary Rapid Support Forces (RSF) – accused of having committed genocide in Sudan, offering security for state officials, training and operational support in the Central African Republic (CAR), and deploying forces to Mali to assist the ruling junta's counter-terrorism efforts. Following a brief uprising against the Kremlin in June 2023 and the suspicious death of Wagner's leader Yevgeny Prigozhin two months later, the group was restructured and more directly integrated into Russia's state military structure. Rebranded the Africa Corps (AC) in late 2023, its paramilitary branch in Africa now operates under the direct control of the Russian Ministry of Defence (MoD) and military intelligence (GRU). Far from disappearing, the group has only expanded its operations since then, including recent deployments in

Burkina Faso and Niger, and continues to provide a wide spectrum of security related services, including personal protection for political elites, protection of key infrastructure, logistical support and training to state or non-state armed forces, direct participation in combat, as well as disinformation campaigns and influence operations. Yet, the group's limited strategic success, combined with a consistent pattern of civilian targeting and a track record of human rights abuses, further underscores risks associated with the proliferation of proxies and private military companies.

While it may seem useful to designate Wagner in the short term, designating Wagner cannot merely be a matter of weighing potential impact and disadvantages on the group itself. Any decision to resort to terrorist designation should rather be grounded in an awareness of the full range of consequences – both intended and unintended – that it might have for future designations, particularly for other state-sponsored groups, and broader impact on regional security in Africa.

Debates around Wagner illustrate a growing support to list state-sponsored entities as terrorist organisations. Beyond the IRGC, other Iranian-backed groups like Hamas, Hezbollah and the Houthis are coming under more scrutiny since the Israeli-Gaza conflict. Hamas has been designated by the US, EU, and, most recently, also by the UK in its entirety. While Hezbollah in its entirety is already listed by the US, in the UK and the EU, only the military wing has been designated. Finally, the Houthis were listed and delisted by the US, and considering their hostile activities in the Red Sea, were again listed as a terrorist group earlier this year. Unlike Wagner/ Africa Corps, some of these organisations – or at least their political wing – are part of a ruling government, and if designated, would complicate entering into dialogue with them, but also providing humanitarian assistance, as currently exemplified by the situation in post-Assad Syria. This raises the question of whether Wagner's designation would be a step forward to recognise state-sponsored terrorism in general, or whether designation is only considered when politically convenient. Moreover, Wagner's designation could open the door for other private security companies to be designated. While more closely associated with the Russian state, it appears that the Africa Corps now serves as “an umbrella for Russia's paramilitary activities on the continent – not just those of Wagner, but also of other private military companies” such as the smaller Bear Brigade PMC, deployed in Burkina Faso. The UK has, in fact, adopted a package of sanctions in November 2024 that

not only targets Africa Corps but also two other private security companies, notably Espanola and the Bears Brigade PMC.

III. Iran's precision proxy network- Hezbollah, Houthis, Hashd al-Shaabi, Palestinian Islamic Jihad

The geopolitical landscape of the Middle East has long been characterised by a complex interplay of interstate rivalries, sectarian identities, and external interventions. In recent decades, one of the most defining features of this landscape has been the strategic use of proxy actors by regional powers to project influence, deter adversaries, and shape political outcomes beyond their borders. Among the most prominent examples of this phenomenon is Iran's support for non-state armed groups such as Hezbollah in Lebanon, Hamas in Gaza, and the Houthis in Yemen, a triad often described as the cornerstone of Iran's "Axis of Resistance." This proxy network enables Iran to extend its regional reach, counterbalance its adversaries and challenge the prevailing regional order through a model of asymmetric warfare and ideological mobilisation.

Iran's relationships with these groups are rooted in both ideology and strategy. Guided by the principles of the 1979 Islamic Revolution and opposition to Western and Israeli influence, Tehran has provided varying degrees of military, financial, and political support to these groups. Hezbollah has evolved from a resistance movement into a formidable hybrid force with a political and military presence that rivals the Lebanese state. Hamas has developed a pragmatic alliance with Iran based on shared hostility towards Israel and mutual strategic interests. Similarly, the Houthis have become a key lever for Iran in the Arabian Peninsula, following the outbreak of the Yemeni civil war and the Saudi-led intervention in 2015.

This strategic triangulation not only allows Iran to offset its geographic limitations and conventional military constraints but also serves as a means of deterrence and retaliation without direct engagement. The use of proxies provides Iran with plausible deniability, reduces the costs of confrontation, and creates multiple fronts of engagement that stretch the capabilities of its regional rivals. At the same time, these proxy actors have transformed into powerful stakeholders within their respective territories, capable of shaping political outcomes and sustaining long-term military confrontations, sometimes independently of Tehran's directives.

However, this model of indirect engagement has far-reaching consequences for the stability and sovereignty of states in the Middle East. These proxy groups often operate outside or parallel to state institutions, undermining national unity, weakening central governments, and complicating peace processes. Their actions contribute to ongoing regional tensions, trigger cross-border confrontations, and invite external military interventions, thereby intensifying instability and perpetuating cycles of violence. Moreover, the international community has struggled to develop coherent responses to these hybrid actors, who often blur the lines between militias, political parties, and social movements.

Established in the early 1980s with Iranian Revolutionary Guard Corps (IRGC) support, Hezbollah has evolved into a powerful political and military force in Lebanon. It possesses an estimated 150,000 rockets and missiles, many of which are capable of striking deep into Israeli territory. Iran might have supplied advanced precision-guided munitions (PGMs) and UAVs to Hezbollah, significantly enhancing its deterrence capability against Israel.

Despite sectarian differences, Iran has strategically supported Hamas, a Sunni Islamist movement, due to its shared objective of confronting Israel. Following a brief rupture in ties during the Syrian Civil War, relations were fully restored around 2017. Iran reportedly resumed financial and military aid, including rocket technology, drone designs, and anti-tank missiles. In 2022, Israeli intelligence assessments suggested Iran's financial support to Hamas exceeded \$100 million per year, alongside technical training provided in Lebanon and Iran. Hamas plays a dual role for Iran: it opens a southern front against Israel and diverts Israeli military focus away from Lebanon and Iran's direct activities in Syria.

The Houthi movement, or Ansar Allah, is another critical component of Iran's proxy network, primarily active in Yemen. Though their Zaydi Shia identity is distinct from Iran's Twelver Shiism, Iran has supplied the Houthis with ballistic missile components, UAVs, and military training through the IRGC and Hezbollah operatives. A 2021 report by the UN Panel of Experts on Yemen confirmed that Houthi weapon systems, including "Qasef" drones and "Samad" UAVs, share strong technical similarities with Iranian models. The Houthis enable Iran to exert pressure on Saudi Arabia by launching cross-border missile and drone strikes on key targets such as oil facilities. More recently, their targeting of commercial shipping in the Red Sea and Bab-el-Mandeb Strait has disrupted maritime traffic and challenged U.S. naval operations, giving Iran a critical strategic foothold on one of the world's busiest trade routes.

Through these proxies, Iran creates multiple low-intensity conflicts that exhaust its rivals and prevent them from consolidating regional influence. For Israel, the dual threat from Hezbollah and Hamas requires maintaining a constant state of high alert, spending an estimated \$18 billion annually on defence, with a significant portion allocated to missile defence systems like Iron Dome and David's Sling. For Saudi Arabia, the Houthi threat forces it to invest heavily in aerial defence, security operations, and a costly war in Yemen that has drawn international criticism. Moreover, Iran's support for these proxies allows it to circumvent diplomatic isolation and economic sanctions. The existence of battle-hardened allies gives Iran negotiating leverage in regional talks, as seen in UN-mediated Yemen peace talks and post-Gaza war diplomacy.

IV. Digital Proxy Warfare: Hacking groups and disinformation operations

The cyber threat environment is increasingly complex due to the proliferation of capabilities and diversity of threat actors. These "cyber proxies" further obscure the environment and are utilized to conduct significant cyber-attacks, exploitations, and influence operations. Furthermore, they pose several risks to sponsoring states. Through the delegation of authority from centrally controlled government agents to non-state actors, the likelihood of information asymmetries and failures increases. Cyber proxy warfare highlights the blurred lines between state and non-state entities, as these groups often operate autonomously or under indirect state sponsorship. The anonymity and accessibility of cyber tools provide an asymmetric advantage to non-state actors, enabling them to challenge even the most technologically advanced nations. For instance, groups like Anonymous and ISIS exemplify how non-state entities can disrupt operations, spread fear, and destabilize geopolitical landscapes through coordinated cyber campaigns. The phenomenon of cyber proxy warfare also emphasizes the critical role of information as a weapon. Digital propaganda, disinformation campaigns, and online recruitment are increasingly utilized by extremist groups to advance their agendas. These methods not only exacerbate social polarization but also undermine trust in institutions, amplifying the long-term effects of cyber conflicts. Addressing these threats requires a multifaceted approach that integrates technological advancements, public awareness, and robust regulatory frameworks. From a strategic perspective, cyber proxy warfare challenges traditional notions of power and security. The shift from physical to digital battlefields necessitates the development of comprehensive strategies that encompass both proactive measures and reactive defenses. International cooperation is paramount in

establishing global norms and collaborative mechanisms to counteract the influence of non-state actors. Cybersecurity frameworks must evolve to address the complexities of a domain where threats are both transnational and multifaceted.

Moreover, the role of public-private partnerships in combating cyber threats cannot be overstated. With much of the world's critical infrastructure privately owned, governments must work alongside corporations to bolster cybersecurity defenses. This includes sharing intelligence, investing in advanced detection systems, and conducting joint training exercises to enhance preparedness against cyber threats posed by non-state actors.

Table 1. Summary of Observations from Case Studies

Case	Non-State Actors	Techniques Used	Target	Affected Countries	Key Impact
Anonymous Attacks	Anonymous	DDoS Attacks, Website Defacement	Government, Enterprise	US, UK, Spain	Operational Disruption, Economic Losses
Cyber Terrorism by ISIS	ISIS	Online Recruitment, Attack Coordination	Civilian, Public Infrastructure	France, Belgium, Indonesia	Public Fear, Infrastructure Damage
Information Manipulation by Extremists	Extremist Groups	Disinformation, Hoaxes	Public Opinion, Political Process	USA, Germany, Brazil	Social Polarization, Crisis of Trust
Digital Propaganda in Conflict	Various Groups	Social Media Campaigns	Parties to Regional Conflicts	Syria, Ukraine, Myanmar	International Support, Public Opinion

Table 2. Number of Cyberattacks and Their Impact

Case	Affected Countries	Number of Attacks	Operational Disruption (%)	Economic Loss (%)	Public Fear (%)	Social Polarization (%)	International Support (%)
Anonymous Attacks	US, UK, Spain	150	85	75	0	10	5
Cyber Terrorism by ISIS	France, Belgium, Indonesia	45	10	0	95	5	0
Information Manipulation by Extremists	USA, Germany, Brazil	120	5	0	15	80	0
Digital Propaganda in Conflict	Syria, Ukraine, Myanmar	30	0	0	20	10	70

Key findings:

1. Anonymous has carried out attacks against the United States, Britain, and Spain. The group uses DDoS attack techniques and website defacement to disrupt government and corporate operations in these countries. As a result of this attack, operations were disrupted by 85% and caused significant economic losses of 75%.
2. ISIS has influenced France, Belgium and Indonesia through the use of cyber technology for online recruitment and attack coordination. This activity causes a very high public fear, reaching 95%. Effective online recruitment and the ability to coordinate cyberattacks strengthen ISIS's ability to create instability in those countries.
3. Extremist groups have carried out information manipulation that has had an impact on the United States, Germany, and Brazil. This activity resulted in social polarization of 80% and created a crisis of trust in the political process. By utilizing technology to spread misleading information, these groups have succeeded in creating divisions in society and affecting political stability.
4. In Syria, Ukraine, and Myanmar, groups that use digital propaganda have leveraged social media campaigns in regional conflicts to gain international support. The campaign has an effectiveness of 70%, which shows their success in influencing international public opinion and gaining sympathy and support for their cause.

Non-state actors have the ability to carry out significant cyberattacks against countries, companies, and individuals. For example, the group Anonymous has been known to carry out DDoS attacks and defacement against government and corporate websites as a form of political and social protest. These attacks often cause operational disruption and major economic losses, especially in countries such as the United States, the United Kingdom, and Spain. These attacks show how non-state actors can challenge state power by using cyber technology as their tool. ISIS, for another example, uses cyber technology for online recruitment and coordination of terrorist attacks. These attacks have led to widespread public fear and damage to infrastructure in countries such as France, Belgium, and Indonesia (Conway, 2016). This action shows that non-state actors can threaten national security and create political instability through the use of cyber technology.

Countries must develop strong regulations and policies to address harmful cyber activities. These include stricter enforcement of illegal activities in cyberspace, regulation of technology companies to improve cybersecurity, and policies to protect citizens' privacy and data. Strengthening regulations and policies will help create a safer and more resilient cyber environment against attacks from non-state actors. The implications of cyber proxy warfare by non-state actors are significant to global power and security. Countries must acknowledge this threat and develop a comprehensive and integrated strategy to confront the challenges posed.

Actors, Interests, and Positions

To thoroughly understand each stakeholder's position, their underlying interests should be considered before simply going off of official statements. Behaviour reflects positions, and positions are a result of strategic calculations, historical experiences, and political constraints. Publicly stated policy may differ from what a country will accept in negotiation. It is important to take into account past behaviours of each stakeholder, predicted gains or losses, and the potential political costs of compromising

The West (US, EU, UK, France, Germany)

The west advocates for accountability but may have credibility issues due to their own respective histories of proxy conflicts. They actively look for mechanisms that can be weaponized against geopolitical rivals such as Russia and Iran. However, they may find it politically costly to endorse frameworks with universal application, due to risk of exposure of their own controversial actions.

The United States of America

The US is simultaneously a historic practitioner of proxy warfare (Nicaragua, Afghanistan 1980s, Syria) and a current victim/target of state-sponsored terrorism (Iran-backed attacks on US forces in Iraq/Syria, Houthi attacks on US naval assets). This dual position makes the US's approach inherently selective: it wants strong accountability frameworks that can be applied to Iran and Russia, but retains significant strategic interest in preserving its own flexibility.

The US publicly supports holding states accountable for proxy actor conduct, but will resist lowering the attribution standard below effective control in any way that could retrospectively implicate US support for groups like the Syrian Democratic Forces, the Mujahideen in the 1980s, or Ukrainian forces.

The USA will also support defining proxy warfare in ways that clearly target Russian and Iranian conduct. They will resist definitions that encompass "arming allies" or "security assistance" to friendly governments.

They will support targeted sanctions, asset freezes on state sponsors, and referrals to the UN Security Council — while implicitly relying on its P5 veto to prevent such mechanisms from being turned against itself. They are likely to oppose binding ICC jurisdiction over state conduct absent ICC membership.

Red Lines- Any mechanism that could be used to investigate or sanction US support for Israel, the SDF, or other US-backed armed actors. Any definition of state-sponsored terrorism broad enough to encompass standard security assistance programs.

Likely Allies- UK, France (on most positions), Israel, Australia, Canada, EU members generally.

The United Kingdom

The UK shares most US positions but faces additional scrutiny given its historical record in Northern Ireland and its role in intelligence-sharing networks. Post-Brexit, the UK is invested in demonstrating leadership on international law and security.

The UK supports strong accountability mechanisms with robust evidentiary standards, and is likely to champion UN Special Committee mechanisms and capacity-building for states to prosecute terrorism financing. It is more willing than the US to engage with treaty-based solutions and will support ARSIWA codification in a new framework but resist expanding it beyond its current scope.

Red Lines- Mechanisms that could be used to revisit UK conduct in Iraq or Afghanistan. Definitions of terrorism that would implicate UK intelligence cooperation with armed groups in the Syrian conflict.

France

France has been a target of major terrorist attacks (2015 Paris attacks, Charlie Hebdo) linked to networks with alleged state connections. France is also deeply invested in its relationships in the Sahel, where it has historically backed state forces against jihadist groups — and has now been expelled from Mali, Burkina Faso, and Niger following Wagner/Africa Corps entrenchment.

They are likely to extend strong support for accountability frameworks targeting Wagner/Africa Corps, which France views as directly responsible for undermining French strategic interests in West Africa, and will support a robust legal definition of PMCs as instruments of state policy. On attribution, France may be willing to move closer to the overall control standard specifically in the PMC context.

Key distinction from the US: France is more willing to engage multilaterally and to support treaty-based mechanisms, including strengthened UNSC counter-terrorism committee powers.

Red Lines- Definitions that would implicate French operations in Mali, Chad, or other Sahel partners. Sovereignty-eroding mechanisms that bypass French UN positions.

Likely Allies

US, UK, EU, African states that have been directly harmed by Wagner presence.

Germany

Germany's post-WWII constitutional and political culture makes it deeply committed to international law and multilateral institutions. Germany also has a strategic interest in NATO cohesion and is a major contributor to counter-terrorism capacity building.

Red Lines- Frameworks that bypass the ILC or existing international legal processes. Overly political definitions that lack legal precision.

Russia

Russia emphasises sovereignty as an ideological stance and a strategic shield. It also has involvement in proxy forces, such as the Wagner Group in Africa, creating tangible accountability risks. Russia relies heavily on their UNSC (United Nations Security Council) veto to avoid measures that may prove unfavourable. It is expected that Russia will promote alternative international structures and attempt to obstruct UNGA resolutions. However, Russia is the clearest target of Western-proposed accountability mechanisms — both for Wagner/Africa Corps conduct and for alleged support to separatist forces in Ukraine. Russia's strategic interest is to block any framework that could establish a binding precedent for state accountability over PMCs or non-state armed groups it supports.

Red Lines- Any definition, standard, or mechanism that creates a pathway to accountability for Wagner/Africa Corps conduct, Russian support for DPR/LPR forces in Ukraine, or Russian security relationships in Belarus, Syria, or Central Asia.

China

China aligns with Russia in terms of sovereignty norms and non-interference principles. However, it is exposed to multiple concerns regarding accountability due to its relationships with North Korea, Iran, and Pakistan. Additionally, China is sensitive about definitions related to terrorism and domestic security, and exercises caution about restrictions on technology transfer and dual-use equipment, which could affect its strategic and economic interests. China's primary concern is precedent — ensuring no accountability framework emerges that could be applied to Chinese conduct in Xinjiang, Tibet, Hong Kong, or Taiwan, or that could be used against Chinese-backed actors in Africa. China also has significant economic interests in Africa where its presence overlaps with Wagner.

India

India is a victim of terrorism, giving it a strong interest in establishing binding standards for attribution of terrorist acts. However, India is also cautious about issues that can arise in self-determination, particularly due to the sensitive Kashmir dispute. India has strong potential to be a bridge-builder and also has the capacity to mediate between Western and Global South blocs.

Pakistan

Pakistan is at a complex position, simultaneously portraying itself as a victim of terrorism while also facing accusations of being a sponsor for terrorist activities. This dual role is a deliberate policy maintained by the Inter-Services Intelligence (ISI), which allows Pakistan strategic flexibility. Pakistan aligns closely with the Organization of Islamic Cooperation (OIC) on definitional questions related to terrorism. Its experience with the Financial Action Task Force (FATF) also provides it with insight into leveraging soft-law mechanisms for international pressure. Pakistan's primary goal is to prevent the committee from adopting any framework, standard, or language that could be used to establish Pakistani state responsibility for LeT, JeM, or Haqqani Network conduct. Pakistan also has legitimate counter-terrorism concerns of its own — it has suffered significant domestic terrorist attacks (TTP — Tehrik-i-Taliban Pakistan) and wants credit for counter-terrorism cooperation.

Iran

Iran is the most directly implicated state in the committee's subject matter. Its Axis of Resistance proxy network is the paradigm case for state-sponsored terrorism as defined by Western states. Iran's objective is to prevent any framework that could be used to sanction, isolate, or prosecute Iran for its support of Hezbollah, Hamas, the Houthis, or Hashd al-Shaabi. Iran's regional deterrence strategy depends heavily on its extensive proxy network. This could cause Iran to have strong opposition to any binding accountability mechanisms that could constrain its influence. Iran's expected strategy would be to reframe the accountability agenda by emphasizing narratives of Western interference and double standards, seeking to delegitimize proposals perceived as biased or selective.

Red Lines- Any resolution that names Iran, Hezbollah, Hamas, or Houthi as state-sponsored terrorism or proxy warfare examples. Any attribution standard that would allow retroactive application to Iranian conduct.

Saudi Arabia and UAE

Saudi Arabia and the UAE are both victims of proxy attacks from Iranian-backed groups like the Houthis, a notable incident being the 2019 Aramco strike. At the same time, both countries have been simultaneously implicated in Yemen coalition violations and have historical links to terrorism financing. Their interests are deeply divided and sometimes

contradictory, resulting in a complex stakeholder position that can shift based on regional developments.

Israel

Israel is the primary target of Iran's Axis of Resistance proxy network. Israel has a direct interest in establishing a strong accountability framework that explicitly covers Iranian support for Hezbollah, Hamas, and the Houthis. Israel's strategic goal is international legal legitimacy for treating these groups' attacks as Iranian state acts. Israel's own conduct in Gaza, the West Bank, and Lebanon has drawn significant international legal scrutiny, including ICJ advisory opinions and ICC investigations. This limits Israel's moral authority in the General Assembly and means many states will be hostile or abstaining rather than aligned. Israel typically has a small but reliable bloc of supporters in UNGA.

Turkey

Turkey is a NATO member with significant strategic autonomy. Turkey has supported armed opposition groups in Syria (some of which the US and EU consider terrorist organizations), conducted operations against Kurdish groups (PKK/YPG) that it designates as terrorist organizations, and deployed Syrian mercenaries to Libya and Azerbaijan. It also faces significant security threats from the PKK, because of which it has strong interest in framing counter-terrorism measures in a way that aligns with its national security priorities. Turkey will most likely push for any international framework to recognize and incorporate its own terrorism designations and definitions.

African Union and Sahel States

The African Union and Sahel states are the primary and most direct victims of Wagner Group and Africa Corps operations. They express frustration with Western conditionalities attached to aid and cooperation, as well as with the Russian impunities. This bloc naturally supports the inclusion of private military company (PMC) accountability language in any framework, though they remain cautious about sovereignty concerns related to external monitoring mechanisms. The African Union as a body has a formal counter-terrorism mandate (African Centre for the Study and Research on Terrorism; Algiers Convention 1999). At the same time, the Sahel states of Mali, Burkina Faso, Niger, and Sudan have complex, evolving relationships with Russia's Wagner/Africa Corps — having initially welcomed Wagner as a

counter-terrorism partner, they are now navigating Wagner's human rights record and the political complications of visible Russian military presence.

OIC and the National Liberation Movement Question

The Organization of Islamic Cooperation (OIC) represents a critical definitional fault-line in debates around terrorism and self-determination. Its position is not merely procedural obstruction but is rooted in substantive political and historical concerns. Understanding the OIC's stance is essential for navigating the complex issues surrounding national liberation movements and their treatment under international law.

Global South / G77

The Global South and G77 countries harbour a historically justified fear that accountability mechanisms can be weaponized against weaker states. However, they also represent potential coalition partners, particularly on issues related to victim remedies and regulation of private military companies. This bloc is a key swing bloc, holding the balance of power required to achieve a two-thirds majority.

Small Island States and LDCs

Small Island States and Least Developed Countries (LDCs) usually take principled stances in favour of rule of law and accountability. Since they do not generally have direct involvement in proxy conflicts, they do not adopt defensive postures on accountability issues. Instead, they often prioritise victim compensation and support binding frameworks, making them natural allies for advancing justice-focused measures in the committee.

Questions a Resolution Must Address (QARMAs)

- How should state-sponsored terrorism be defined in legal terms?
- What standard of attribution best captures state responsibility?
- What institutional form should the accountability mechanism take?
- How can the mechanism be protected from political interference, like the UN Security Council veto?

- What are the evidentiary standards for investigations and prosecutions?
- How will the framework address the role of private military companies (PMCs), proxy warfare, hybrid warfare and their state sponsors?
- What remedies and reparations should be available to victims?
- How should host-state consent to terrorist activities on its soil affect accountability?
- What role should regional organizations play in implementation and enforcement?

What Is a Binding International Legal Framework?

International law derives its authority from several recognized sources as outlined in Article 38 of the ICJ Statute. These include treaties, customary international law, general principles of law, judicial decisions, and scholarly writings. Each source varies in its binding nature and the parties it binds. Treaties, for example, are binding on states that vote for or sign them, while international law binds all states universally. Understanding these sources is crucial to grasp how international legal norms acquire their binding force.

In international law, "binding" means that states which consent to a legal instrument have an obligation to comply with its provisions. However, this obligation does not imply automatic enforcement. Binding obligations typically apply to states that ratify treaties or are subject to customary law, which binds all states *erga omnes* (towards all). The distinction lies in the gap between legal obligation and practical compliance, as international law lacks a centralized enforcement authority. Therefore, binding signifies a legal duty rather than guaranteed adherence.

Binding does not mean that there will be automatic compliance by states. Furthermore, it does not imply the existence of an executive authority capable of compelling states to follow the law, nor does it mean that the underlying problem addressed by the legal framework is resolved simply by the existence of any binding obligations. Recognizing these limits is just as important as understanding the value of binding international law, as it frames realistic expectations about what international legal frameworks can achieve.

The creation of a binding treaty follows a structured process: negotiation, adoption, signature, ratification, and entry into force. States may make objections to certain sections of treaties,

but amendments are subject to limits in order to preserve the treaty's integrity. Ratification thresholds give countries time to pass domestic legislation needed to comply with the treaty's rules, therefore determining when a treaty becomes legally effective. States that do not ratify are not bound by the treaty.

Currently, counter-terrorism is governed by 19 sectoral conventions, each covering specific aspects of terrorism-related crimes. However, these conventions leave deliberate gaps and do not form a comprehensive or cohesive system. It is difficult to achieve consensus on a binding global framework, an example being the Comprehensive Convention on International Terrorism (CCIT) that has been stalled for over thirty years. Existing treaties have loopholes, overlapping and contradictory statements, and weak regulations, limiting their effectiveness.

A legal framework is an integrated system composed of five essential components: definitions that the framework is based on, attribution standards for determining responsibility, procedural mechanisms for establishing responsibility, enforcement tools with consequences mentioned, and remedies for victims. All five components must coexist for the framework to function effectively.

Current international laws and treaties require states to prevent and suppress terrorism carried out by non-state actors such as terrorist groups or individuals. However, there is a lack of a binding instrument to hold states accountable when they themselves sponsor terrorism. Addressing this gap requires a framework that explicitly targets state-sponsored terrorism. This framework must include ways to investigate, sanction, and hold states responsible, such as through international courts, sanctions regimes, or collective action by the international community.

International law operates without an executive branch. The International Court of Justice (ICJ) cannot enforce its rulings, the International Criminal Court (ICC) depends on state cooperation for arrests, and the UN Security Council, although allowed to authorize enforcement, is often held back by the veto power of its five permanent members. This structural paradox is a challenge that delegates need to confront when designing a binding framework.

Although no enforcement mechanism matches the power of the Security Council resolutions, alternative models exist. These include reputational costs through naming-and-shaming, economic pressure via treaty-based targeted sanctions, exclusion from multilateral institutions, universal jurisdiction exercised by national courts, collective non-recognition of

illegitimate governments, and ICC jurisdiction over individual officials. Each of these are incentives for states to comply, and offer tools for enforcement in the absence of Security Council approval.

What Any Credible Framework Must Contain

A credible framework must define state-sponsored terrorism with clear and precise language to ensure consistent application by an independent body. It must include explicit safeguards to prevent political misuse in order to protect the framework from becoming a tool for arbitrary or selective accusations.

Attribution standards in a framework should capture the full spectrum of state complicity, and avoid a simplistic binary threshold. The framework must recognize indirect, multi-layered, and digital proxy relationships.

Additionally, the framework's institutional mechanisms must be insulated from political pressure through secure appointment processes, independent funding, and mandate protections.

The framework must apply universally to all states, including the most powerful ones. Selectivity undermines political support and ratification prospects, and threatens the framework's viability.

Enforcement mechanisms mentioned must function independently of UN Security Council vetoes. They should primarily rely on treaty authority, reputational instruments, and collective economic measures to generate compliance incentives.

Furthermore, accountability frameworks are incomplete if they lack real consequences. Victims must have access to the process, receive direct compensation, and be able to participate in proceedings.

Every part of the framework must be explicitly compatible with international human rights law and due process. Counter-terrorism frameworks without human rights constraints produce their own forms of state violence.

The framework must be adaptable to emerging technologies, for example, cyber proxies, AI-enabled weapons transfers, and financial proxy networks. It should be capable of addressing modern, technology-driven forms of state-sponsored terrorism.

Accepted Sources

With the Internet being the major source of any information, the Executive Board would like to clarify which all sources are preferred in the formal functioning of the committee. These are sources accredited by The United Nations :

- REUTERS
- Al-Jazeera
- State-operated news agencies - Reports from these agencies can be used to support or question the credibility of the nation that owns them. However, since they are state-operated, other countries can deny their reports if they are not substantial.
- UN Reports - Reports published by the UN that are relevant to the agenda are considered credible.
- CIA World Factbook: The World Factbook is an authorised resource prepared by the Central Intelligence Agency which provides information about demographics, geography, communications, government, economy, etc of different countries around the globe.

All the facts taken from the sources mentioned above will only be considered credible in the committee. We do not encourage the use of sources such as Wikipedia, Quora, etc. where the information can be edited easily or the information shows personal biases or opinions rather than objectivity on the matter. Quotes and/or statements from individuals shall not be accepted as they do not express the views of the government but rather an individual who holds office.

Using this Background Guide

The Background guide acts as a foundation and a stepping stone to the research, so any facts or data cannot be quoted in the committee via the document. The background guide is your starting point, not your only source of research. Read it carefully to understand the committee's agenda, key issues, and the perspectives of different stakeholders. Use the questions and topics provided as a framework for further research, consulting reliable sources to deepen your understanding of your country's position and potential solutions.

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