

## **Extraterritorial Use of Force Against Non-State Actors**

**Noam Lubell**

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*Extraterritorial Use of Force Against Non-State Actors* is a highly valuable contribution to international law. Lubell's book clarifies how different areas of international law regulate state behaviour when a state uses force in the territory of another state against a non-state actor. In such situations, the state is potentially in breach of obligations under three substantive bodies of international law: the law surrounding the use of force by states, international humanitarian law (IHL) and international human rights law. Lubell examines not only the rules themselves, but also how the three areas of law interact, and the contentious issues that arise within each.

The extraterritorial use of force against non-state actors covers a range of factual incidents, from kidnapping and extraordinary rendition to the use of targeted killings and full-scale battles. The legal implications of this range of events have been increasingly disputed as non-state actors, and the use of terrorism, come to occupy a more ubiquitous role in international affairs. Such incidents present challenges to the understandings of state responsibility upon which these three bodies of international law are based. The prohibition on the use of force, for example, is modelled on traditional understandings of inter-state behaviour, whilst IHL applies based on the type and intensity of a conflict, and human rights law focuses on the relationship between the state and the individual. As a result, the status of non-state actors varies substantially between these three areas as does the nature and extent of state obligations. The uncertainty surrounding incidents like those addressed here has led to extensive debate within each body of law and calls for new legal rules to be created. Some states have gone so far as to combine legal rules from different areas of international law in an attempt to justify their actions. This book goes a substantial way towards resolving such confusion.

Lubell has structured the work around the three areas of law, with each area constituting roughly a third of the book. There is an introductory chapter outlining the overarching issues and setting out the factual examples that are referred to within the main body. This avoids a reliance on the reader's assumed knowledge of the details of each incident as well as the needless reiteration of facts. The Israel-Hezbollah 2006 conflict in southern Lebanon, and the use of Predator drones by the US in Yemen

and Pakistan are used to illustrate a number of the book's conclusions in the final chapter. Lubell helpfully provides point-form summaries at the end of each section. Given the intricacies of the subject matter, these greatly enhance the reading experience and are used most effectively in the first section on the prohibition on the use of force.

Not only does Lubell deal with the specific contested areas of each body of law in admirable detail, there is also a consistent overarching argument which runs through the discussion. This is that there is no need for new rules to be created. The existing legal regimes, with some clarification, are sufficient to provide rules to govern the titular scenario. Of particular note is the systematic refutation of the contention that a new type of conflict has emerged with the rise of global terrorism, to which the existing rules of IHL do not apply. Lubell argues that the existing thresholds for non-international armed conflict in IHL are sufficiently flexible to effectively incorporate this threat. He posits that to recognise otherwise would provide states with a way to avoid their obligations under IHL, a view reiterated in the discussion of the prohibition on the use of force and in that on the extraterritorial application of human rights. The book provides much needed clarification on the interaction between these different areas of law, of which the well executed discussion of the parallel applicability of human rights law and IHL is one of several examples.

The range of sources employed across the work generally demonstrates a very high degree of international legal scholarship. The treatment of sources of human rights law is especially notable, successfully comparing and synthesising treaty obligations with varied jurisprudence and the findings of international bodies. That discussion does give more space to outlining and combating different lines of argument. This greater level of engagement is rewarding, if slightly at odds with the more generalist discussion of the debates elsewhere in the book. However, the treatment of customary international law, as a source of law, is not as accessible. It features prominently in the debates around the prohibition on the use of force by states. Unfortunately, the requirements of customary international law are not addressed explicitly and it is assumed that the reader is aware of them. This makes it difficult in some instances to see how the evidence justifies the position taken and may make it difficult for the reader to contextualise the conclusions that are drawn.

Lubell's *Extraterritorial Use of Force Against Non-State Actors* represents a substantial achievement in international law. Addressing the extant rules of any one of the areas of law discussed is of itself a difficult task given the complexity of the law involved in each. This book succeeds in not only doing that, but also providing insights into the way in which these bodies of law interact. Most importantly, Lubell has made

a considerable contribution to clarifying the obligations of states in such instances, and providing a foundation for later scholarship in this area.

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