



LEGAL RESPONSIBILITY AND EFFECTIVE OBLIGATIONS OF NON-STATE ARMED GROUPS

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Abstract:

This study examines the legal status, obligations, and accountability of non-state armed groups under international law. Despite lacking formal legal personality and international recognition, these groups are bound by international humanitarian law (IHL) and human rights law when exercising organized violence and controlling territory or populations. Their obligations stem from the objective and customary nature of humanitarian rules, their effective authority over populations, and the urgent need to protect civilians and prevent impunity. The research highlights the minimal guarantees afforded to members of such groups, the absence of combatant status, and the scope of individual criminal responsibility, particularly command responsibility. International jurisprudence, including cases from the ICTY, Sierra Leone, and the DRC, illustrates the enforcement of these obligations. The study concludes that legal accountability applies regardless of political legitimacy, ensuring protection for civilians and reinforcing the humanitarian purpose of international law.

Keywords: Non-State Armed Groups, International Humanitarian Law, Effective Control, Individual Criminal Responsibility, Civilian Protection.

Introduction:

In recent decades, the world has witnessed significant transformations in the nature of armed conflicts. States are no longer the sole actors; non-state armed groups have emerged as influential participants in both internal and international conflicts. These groups engage in organized acts of violence and exercise control over territories and populations, making them pivotal actors in the balance of military power and posing substantial legal challenges to

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international humanitarian law and human rights law. While states typically prohibit others from engaging in military activities or recognizing the legitimacy of armed groups, the reality on the ground necessitates subjecting these groups to basic humanitarian rules to ensure civilian protection and prevent impunity, creating tension between legal and political considerations on one hand and the normative humanitarian framework on the other.

This reality gives rise to a central issue: how to compel non-internationally recognized armed groups to comply with international humanitarian law while maintaining a delicate balance between not granting them political legitimacy and protecting civilians and ensuring accountability for their members' violations. This issue can be divided into several key areas, including defining the concept of non-state armed groups, requirements of organization, leadership, and control, distinguishing them from other actors such as national liberation movements and private military companies, as well as addressing the legal status of their members, their fundamental rights, individual criminal responsibility, and the legal basis obliging them to adhere to humanitarian rules whether based on the non-consensual nature of the rules or the doctrine of de facto authority.

The research adopts a descriptive-analytical methodology, studying international legal texts such as the Geneva Conventions and their Additional Protocols, and human rights law, alongside analyzing judicial precedents from the International Criminal Court and special tribunals for previous conflicts in Yugoslavia, Sierra Leone, and the Democratic Republic of Congo. The study also draws on scholarly and academic works to understand the relationship between de facto territorial control and compliance with international humanitarian law, linking legal theory with the practical realities of contemporary armed conflicts, with a focus on concrete applications and issues of individual command responsibility.

The study is structured to progress systematically from defining armed groups and the criteria for identifying them, to the legal status of their members and the obligations that ensue, and finally to the legal basis for enforcing compliance with international law, supported by practical examples illustrating these principles. The first section defines non-state armed groups, focusing on elements such as

responsible leadership, a certain level of organization, and the ability to control part of a territory, before distinguishing these groups from other actors, including national liberation movements with special rights and private military companies operating under international or contractual supervision. The second section addresses the legal status of armed group members, including the absence of combatant status, minimum humanitarian guarantees, and individual criminal responsibility, including command responsibility and the obligations of groups exercising effective control over populations. The third section discusses the legal basis for armed groups' obligations under international law, considering the non-consensual nature of the obligations, the customary character of many rules, the de facto authority doctrine as a basis for compliance, and the balance between rejecting political recognition and imposing legal obligations to protect civilians.

This systematic approach provides a comprehensive and integrated perspective on the study of non-state armed groups, combining theoretical analysis and judicial precedents, as well as legal theory and the practical realities of armed conflicts, thus offering a solid foundation for understanding the obligations and legal accountability of these groups under contemporary international law.

1-Chapter One: The Conceptual and Legal Framework of Non-State Armed Groups

Determining the concept of non-state armed groups constitutes the starting point for understanding their legal status. Although there is no comprehensive contractual definition, international humanitarian law (IHL) and international judicial practice have established precise criteria that allow these groups to be distinguished from other armed phenomena (Abu Ghazala, 2015, p. 12).

1.1-Section One: The Concept of Non-State Armed Groups and Criteria for Their Identification

Studying the concept of non-state armed groups requires moving from political classification to objective legal analysis. IHL does not concern itself with the legitimacy of the group or the righteousness of its objectives, but rather with its factual reality and its capacity to undertake organized military functions that make it a party to a non-



international armed conflict, together with the associated legal obligations (Abdul-Raouf, 2013, p. 45).

1.1.1-Subsection One: Definition in International Humanitarian Law

The Geneva Conventions do not provide an explicit definition of non-state armed groups, reflecting deliberate legislative caution (ICRC, Geneva Conventions of 1949, 1949, p. 5). When drafting these conventions, states avoided giving a direct legal characterization to entities that could, in their view, constitute a rebellion against lawful authority. However, this absence did not prevent the emergence of a clear normative framework, especially following the adoption of Additional Protocol II, which set objective conditions for the application of its provisions to non-international armed conflicts (Additional Protocol II 1. I., 1977, pp. 2-3).

This framework is based on a fundamental idea; legal obligations are linked to the practical capacity to fulfill them. The existence of responsible leadership is not merely a formal element but signifies the presence of a decision-making center capable of directing operations and regulating the conduct of individuals (Sharif, *The Legal Corpus of Armed Conflicts and the Hague Tribunal Procedures*, 2012, p. 78). This is clearly illustrated by the Taliban's experience during the conflict in Afghanistan prior to 2001, where the movement possessed a clear leadership structure, judicial and administrative bodies, and the ability to issue binding orders to its fighters (Abu Ghazala A., *International Humanitarian Law: An Analytical Study on Non-International Armed Conflicts*, 2015, p. 56). Such leadership reflects an organizational capacity that allows legal responsibility to be attributed to the group as an organized entity.

The requirement of organization is understood in light of the practical ability to plan and manage military operations on a continuous basis. The distinction between spontaneous armed protests and an organized group lies in the existence of an internal system for role allocation, a chain of command, communication mechanisms, and disciplinary procedures. A relevant example is the Revolutionary Armed Forces of Colombia (FARC), which for many years maintained a quasi-military structure, geographically divided sectors, and the ability to negotiate with the Colombian government (Al-Qadri,

Studies on Organization and Leadership in Non-State Armed Groups, 2016, p. 102), thereby classifying the conflict with them as a non-international armed conflict in the legal sense, rather than mere internal disturbances.

This is closely linked to the element of territorial control, which reflects the connection between factual authority and legal obligation. Territorial control enables a group to apply IHL rules concerning civilians, the treatment of detainees, and the protection of the wounded. This element was particularly evident in the case of the Islamic State between 2014 and 2017, when it controlled vast areas of Iraq and Syria and established administrative and judicial structures. Despite the lack of recognition of its legitimacy, the factual reality demonstrated the presence of organization and control, resulting in the application of the rules of non-international armed conflicts to its actions (Hassanin, Non-State Armed Groups under International Humanitarian Law, 2019, p. 65).

This analysis confirms that the distinction between a non-international armed conflict and internal disturbances is not political but based on an objective standard composed of the intensity of violence and the level of organization. Widespread protests or limited confrontations, no matter how intense, do not constitute an armed conflict unless there exists an organized armed group capable of sustaining hostilities.

2.1.1-Subsection Two: Criteria of Organization in International Jurisprudence

International courts have played a pivotal role in translating general standards into precise practical tests. The International Criminal Tribunal for the former Yugoslavia (ICTY) in the *Tadić* case established the concept of an "organized armed group", confirming that organization can be inferred from a set of factual indicators, such as planning capacity, continuity of operations, and the existence of an effective command structure.

The application of this standard appeared during the conflict in Bosnia and Herzegovina, where certain armed formations were considered parties to an armed conflict despite lacking state status. The criterion was not the legal form of the group, but its capacity to conduct coordinated and sustained hostile actions.



The International Criminal Tribunal for Rwanda (ICTR) further emphasized that the standard of organization is not limited to the existence of formal bureaucratic structures, but is measured by the actual ability to manage military operations. During the 1994 genocide, not all actors were part of a regular army, yet some groups possessed sufficient coordination and discipline to be subject to the rules of armed conflict.

These criteria are important to prevent impunity; a group cannot evade the law by invoking its informal nature. They also influence the characterization of the conflict itself, particularly when assessing whether a group operates independently or under the control of a foreign state, which could shift the conflict from non-international to international under the "effective control" standard discussed by the tribunals.

Through this judicial development, the concept of a non-state armed group has become a dynamic legal standard, determined by factual circumstances rather than political classification. In this way, the practical character of IHL is reinforced, which aims primarily to subject all those engaging in organized violence to legal rules that guarantee a minimum level of humanitarian protection, regardless of the legitimacy of their objectives or political nature.

2.1-Section Two: Distinguishing Non-State Armed Groups from Other Actors

The legal characterization of an armed actor is not merely a theoretical issue; it determines the nature of the conflict, the scope of applicable rules, and whether the individuals involved enjoy combatant and prisoner-of-war status or are subject only to the minimum guarantees provided in non-international armed conflicts (Abu Ghazala A. , Adel. International Humanitarian Law: An Analytical Study on Non-International Armed Conflicts, 2015, p. 23). Accordingly, analysis requires distinguishing between non-state armed groups, national liberation movements, and private military companies, taking into account the legal basis for each category and the nature of its relationship to the international system (Abdul-Raouf M. , Non-State Armed Conflicts in International Law, 2013, p. 50).

1.2.1-Subsection One: National Liberation Movements Between International Legitimacy and Special Status

The adoption of Additional Protocol I represented a qualitative shift in international humanitarian law, as its Article 1 recognized that conflicts waged by peoples against foreign occupation, colonial domination, or racist regimes constitute international armed conflicts (Additional Protocol I, 1977, pp. 1-2). This recognition moved some national liberation movements from the framework of internal conflicts to the category of international conflicts, with significant legal consequences, most notably granting their fighters combatant status and prisoner-of-war protections if captured (Sharif, *The Legal Corpus of Armed Conflicts and the Hague Tribunal Procedures*. Beirut, 2012, p. 91).

This recognition is grounded in the principle of the right of peoples to self-determination, enshrined in the United Nations Charter and subsequent General Assembly resolutions, particularly during the decolonization period of the 1960s and 1970s (United Nations Charter & UN General Assembly Resolution 1514 (XV), 1960). The international community viewed some liberation movements as representing peoples under foreign occupation, rather than merely rebellious groups within an existing state.

The practical implications of this distinction are evident in the experience of the National Liberation Front (FLN) during the Algerian War of Independence, which later became a model in of a liberation conflict of international character (Abu Ghazala A. , *International Humanitarian Law: An Analytical Study on Non-International Armed Conflicts*, 2015, p. 112). Similarly, the Palestine Liberation Organization (PLO) received widespread international recognition as representing the Palestinian people, granting its struggle a dimension beyond the traditional internal framework (Al-Qadri, *Studies on Organization and Leadership in Non-State Armed Groups*, 2016, p. 134).

However, this special status does not apply to armed groups contesting a recognized government within the borders of an internationally recognized state, without facing foreign occupation. Such groups, regardless of their degree of organization, remain classified under non-international armed conflicts and are subject to



the minimum rules of humanitarian law, without affording their members legal status equivalent to fighters in international conflicts (Abdul-Raouf M. , *Non-State Armed Conflicts in International Law*, 2013, p. 61). Therefore, the distinction is based less on political considerations than on the nature of the legal right underlying the group ; whether it is the right to self-determination against foreign occupation or a domestic power struggle within an existing state.

This distinction has profound practical consequences, most notably determining whether the conflict is international or non-international, and consequently defining the scope of legal protection, prisoner regimes, and the applicability of certain rules of military occupation.

2.2.1-Subsection Two:The Contractual Nature of Private Military Companies and International Responsibility

Unlike non-state armed groups, private military companies (PMCs) are not considered independent parties to a non-international armed conflict, as they are not created to pursue an independent political project but operate based on contractual relationships with a state or international organization (Sall, 2017, p. 25). They provide security, logistical, or training services for payment, without claiming sovereign authority or seeking territorial control (Sassòli, *International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare*, 2019, p. 211).

The case of Blackwater, later known as Academi, exemplifies this type of actor. The company operated under contracts with the U.S. government in Iraq and was not an independent party to the conflict, but rather a contracted entity providing security services (Avant, *The Market for Force: The Consequences of Privatizing Security*, 2005, p. 87). In the event of violations, issues of individual criminal responsibility arise, as well as the potential attribution of acts to the contracting state if effective control or direction is established (Avant, *The Market for Force: The Consequences of Privatizing Security*, 2005, p. 102).

The fundamental difference between PMCs and armed groups lies in political and operational independence. A PMC does not exercise autonomous authority over a territory nor seeks to change the political system; it acts within the limits of its contract and under the

supervision of the contracting party. In contrast, a non-state armed group possesses a degree of autonomy in decision-making and leadership and the capacity to conduct military operations in its own name and in pursuit of its project (Abu Ghazala A. , International Humanitarian Law: An Analytical Study on Non-International Armed Conflicts, 2015, p. 119).

If a PMC commits serious violations, responsibility may extend to the contracting state if it can be shown that the state exercised a degree of control or direction rendering the company's acts attributable to it under international law. This highlights the complex relationship between private actors and states, which fundamentally differs from the case of non-state armed groups operating outside a recognized contractual framework.

It is clear that the distinguishing criterion between non-state armed groups and other actors primarily depends on the legal basis of the armed activity and the degree of political and operational independence. National liberation movements may qualify as participants in international conflicts if they act on the right to self-determination against foreign occupation, whereas internal armed groups remain within the non-international conflict framework. PMCs, by contrast, are defined by their contractual nature and lack of an independent political project, with both their responsibility and that of the contracting state subject to international law rules.

Thus, legal characterization is not a mere terminological exercise but a decisive mechanism determining the scope of protection, the nature of responsibility, and the obligations of each actor in the context of armed conflicts.

2-Chapter Two: Legal Status, Obligations, and Criminal Responsibility

The status of members of non-state armed groups presents a clear legal paradox; they are parties to an armed conflict and engage in organized combat, yet international humanitarian law does not recognize them as combatants in non-international conflicts (Abu Ghazala A. , International Humanitarian Law: An Analytical Study on Non-International Armed Conflicts, 2015, p. 45). This creates a hybrid legal status, combining subjection to the rules of armed conflict with the absence of some privileges enjoyed by combatants in international



conflicts (Abdul-Raouf M. , Non-State Armed Conflicts in International Law, 2013, p. 70).

1.2-Section One: Legal Status, Rights, and Guarantees

Although states traditionally refrain from granting members of armed groups any legal status that might imply recognition of legitimacy, IHL does not leave them outside the scope of protection. Instead, it provides a minimum set of guarantees based purely on humanitarian considerations, without affecting the state's position regarding the legitimacy of their armed activity (Sharif, The Legal Corpus of Armed Conflicts and the Hague Tribunal Procedures, 2012, p. 102).

1.1.2-Subsection One: Absence of Combatant Status and Legal Consequences

The Third Geneva Convention grants prisoner-of-war status to specific categories in the context of international armed conflicts, but this regime does not extend to non-international armed conflicts (Third Geneva Convention Relative to the Treatment of Prisoners of War, 1949, p. 12). Consequently, members of armed groups opposing a government do not have combatant status, nor do they enjoy combat immunity that would shield them from criminal prosecution solely for bearing arms or participating in hostilities (Abu Ghazala A. , International Humanitarian Law: An Analytical Study on Non-International Armed Conflicts, 2015, p. 49).

This reflects states' caution in granting any form of legal recognition to those taking up arms against them within their territory. States retain the right to prosecute them under national criminal law for offenses such as rebellion, terrorism, or public order violations, even if they comply with IHL rules during hostilities.

However, the absence of combatant status does not imply a lack of protection. Members of armed groups are considered civilians under IHL by default, although they lose civilian protection while directly participating in hostilities. Once they cease fighting—whether by surrender, capture, or injury—they regain protection against targeting (Abu Ghazala A. , Adel. International Humanitarian Law: An Analytical Study on Non-International Armed Conflicts, 2015, p. 51).

The International Committee of the Red Cross (ICRC) interprets "direct participation in hostilities" as acts that have a direct effect on the military capacity of the adversary (ICRC, Direct Participation in Hostilities under IHL, 2009, p. 22), such as conducting an attack or transporting ammunition to a combat zone. The ICRC distinguishes between temporary participation, which results in a temporary loss of protection, and sustained engagement in a combat function within an organized armed group, where the loss of protection continues throughout the period of performance.

This framework balances state security needs, which allow targeting of active combatants, with humanitarian protection requirements, which prevent targeting individuals solely based on political affiliation or perceived sympathies.

2.1.2-Subsection Two: Fundamental Guarantees and Minimum Humanitarian Protections

Common Article 3 of the Geneva Conventions serves as the cornerstone of protection for persons in non-international armed conflicts. It establishes minimum binding rules for all parties, irrespective of legal status or the legitimacy of objectives.

The article prohibits killing in all forms of persons not directly participating in hostilities, as well as torture, cruel or degrading treatment, hostage-taking, and the issuance or execution of sentences without fair trial guarantees. In international scholarship, this article has been described as a "mini-convention within the conventions" due to its universal humanitarian character and broad binding force (Geneva Conventions, 1949, p. 10).

Additional Protocol II reinforced and expanded these minimum standards, providing protection for the wounded and sick, requiring non-discriminatory treatment, safeguarding detainee dignity, and ensuring humane detention conditions. It also emphasized judicial guarantees, including the right to defense and the principle of no conviction except by a duly constituted court (Additional Protocol II G. 1.-6., 1949, pp. 5-8).

These provisions apply to all conflict parties, whether a state or a non-state armed group. IHL does not distinguish between parties in the substance of humanitarian obligations but subjects all to the same standards concerning persons who are hors de combat or not



participating in hostilities. This normative structure ensures that human dignity is protected even in internal conflicts and that political considerations regarding the legitimacy of a group do not justify violations of fundamental humanitarian rules. The ethical and humanitarian core of IHL is thus apparent, aiming primarily to reduce human suffering during war, regardless of the actor's identity or motives (Abdul-Raouf M. , Non-State Armed Conflicts in International Law, 2013, p. 74).

2.2-Section Two: Individual Criminal Responsibility

International criminal law is the primary instrument to ensure compliance with IHL, shifting focus from state responsibility to the accountability of individuals who commit the gravest crimes. The core principle is that international crimes are perpetrated by natural persons, not abstract entities, and thus accountability must be personal and direct (Schmitt, 2017, p. 303).

1.2.2-Subsection One: Responsibility before International Courts

The International Criminal Court (ICC) enshrines individual criminal responsibility in its Statute, affirming that any person who commits a crime within its jurisdiction is individually accountable, regardless of official position or leadership role. The Court's jurisdiction covers war crimes, crimes against humanity, and genocide, whether committed in international or non-international conflicts (Rome Statute of the ICC, 1998, pp. 15-22).

Responsibility extends beyond direct perpetrators to those who order, incite, assist, or contribute to the crime. Command responsibility is a central development in modern international criminal law: a military commander or person exercising effective authority over subordinates is liable if they knew, or should have known, of crimes committed by subordinates and failed to prevent them or punish the perpetrators (Sharif, The Legal Corpus of Armed Conflicts and the Hague Tribunal Procedures, 2012, p. 119).

This principle has been applied in cases such as *Thomas Lubanga* before the ICC, concerning the recruitment of child soldiers in the Democratic Republic of the Congo. While the case concerned a specific crime, it affirmed that effective command, not merely formal rank, is the basis for liability (ICC, 2012). Precedents from the ICTY also established that effective authority over forces, combined with

knowledge or constructive knowledge of crimes, suffices to incur criminal responsibility. This reflects the firmly held principle in international law that authority entails responsibility, and those with control and direction over forces bear consequences for violations of humanitarian law, even if not directly participating in execution (ICTY, 1999).

2.2.2-Subsection Two: Obligations under Human Rights Law

The discussion has expanded beyond IHL to the obligations of armed groups under international human rights law. When an armed group exercises effective control over territory and population, it assumes functions analogous to those of a state, such as managing prisons, establishing courts, or enforcing behavioral rules. In such cases, legal obligations are linked to de facto authority rather than formal international status (Abu Ghazala A. , International Humanitarian Law: An Analytical Study on Non-International Armed Conflicts, 2015, p. 80).

A group managing a specific area bears obligations regarding the right to life, prohibition of torture, protection of children from recruitment and exploitation, and humane treatment of detainees (Hassanin, Non-State Armed Groups and Human Rights Obligations, 2019). This issue has arisen in regions under prolonged control of armed groups, such as the Islamic State's occupation of parts of Iraq and Syria, where it established courts, security bodies, and civil administration. Despite the lack of recognition of legitimacy, the exercise of effective authority raises serious questions about compliance with fundamental human rights standards.

This trend reflects an important development in international scholarship, moving from a traditional conception that limits human rights obligations to states, to a more realistic view linking obligations to the exercise of authority. The criterion is no longer formal status but effective ability to influence individuals' lives and control their fate (Abdul-Raouf M. , Non-State Armed Conflicts in International Law, 2013, p. 81).

Thus, IHL and international human rights law complement each other in subjecting armed groups, their leaders, and members to a system of legal accountability, whether before international courts or under objective obligations imposed by the nature of the authority



they exercise. The result is the reinforcement of a fundamental principle: bearing arms or exercising force does not exempt one from the law; indeed, it amplifies the gravity of legal responsibility (Sassòli, *International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare*, 2019, p. 233).

3-Chapter Three: The Legal Basis for Non-State Armed Groups’ Compliance with International Law

The obligation of non-state armed groups to comply with international humanitarian law (IHL) represents one of the most significant contemporary challenges in international law. These groups are neither states nor possess legal personality, yet they exercise effective control over territory and populations and participate in organized combat (Abdul-Raouf M. , *Non-State Armed Conflicts in International Law*, 2013, p. 88). This raises a fundamental question; how does international law compel such groups to adhere to basic humanitarian rules? This chapter demonstrates that compliance does not depend on treaty ratification or formal recognition, but on the objective nature of humanitarian rules, the de facto authority of the group, and the practical necessity of protecting civilians (Abdul-Raouf M. , *Non-State Armed Conflicts in International Law*, 2013, p. 95).

1.3-Section One: The Non-Contractual Nature of IHL Obligations

Although armed groups are not contracting parties to international treaties, IHL imposes specific obligations on them. These obligations stem from the inherent nature of humanitarian rules and apply once an armed conflict exists, regardless of the explicit will of the group or state, to ensure civilian protection and prevent impunity (Sharif, *The Legal Corpus of Armed Conflicts and the Hague Tribunal Procedures*, 2012, p. 110).

1.1.3-Subsection One: Common Article 3 as a Binding Principle

Common Article 3 of the Geneva Conventions serves as the cornerstone in obliging all parties to a conflict, including unrecognized armed groups. It imposes fundamental rules prohibiting killing, torture, hostage-taking, and ensuring dignified treatment of persons not participating in hostilities (Geneva Conventions, 1949, p. 10)

Compliance does not require the group’s signature on any treaty; organized use of force in the conflict suffices to trigger adherence to

humanitarian norms. For example, in the conflicts in Sierra Leone and the Democratic Republic of the Congo, armed groups were held accountable for violations of Common Article 3 despite not being signatories to any international instruments, demonstrating the non-contractual nature of legal obligations (Abu Ghazala A. , International Humanitarian Law: An Analytical Study on Non-International Armed Conflicts, 2015, p. 92).

2.1.3-Subsection Two: Customary and Peremptory Nature of Certain Rules

Beyond Common Article 3, some legal norms have attained the status of binding customary law, such as the prohibitions on killing outside combat, torture, and hostage-taking. These rules apply to all parties, including officially unrecognized armed groups, and impose obligations on both leadership and rank-and-file members (Sassòli, International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare, 2019, p. 221).

The customary nature of these rules reflects the international community's recognition that civilian protection is a paramount priority over political considerations. For instance, the ICTY affirmed that such rules are binding on all parties, including unrecognized armed groups, and that any violation results in criminal accountability for responsible individuals, whether leaders or direct perpetrators (ICTY, 1999).

2.3-Section Two: The Effective Control Theory as a Basis for Obligation

Modern international law emphasizes that compliance with humanitarian rules is not contingent upon the formal status or legal personality of an armed group but on its practical ability to exercise authority and control over populations or territory. Any group exercising de facto control over an area, imposing order on its inhabitants, becomes bound by international legal obligations. This principle balances the realities on the ground with the protection of civilians and provides a foundation for applying IHL in non-international armed conflicts (Abdul-Raouf M. , Non-State Armed Conflicts in International Law, 2013, p. 98).



1.2.3-Subsection One: Effective Control and IHL Application

When a non-state armed group controls territory or populations for a period, it performs functions similar to those of a state, such as organizing internal security, managing essential services, or imposing rules on inhabitants. This factual control obliges compliance with humanitarian laws, even without international recognition or treaty signature.

Effective control means the group can influence individuals' behavior within the territory, including preventing violations or sanctioning offenders. This control creates tangible responsibility that extends beyond legal or contractual recognition (Abu Ghazala A. , International Humanitarian Law: An Analytical Study on Non-International Armed Conflicts, 2015, p. 100).

For example, the Islamic State established administrative and security institutions, from courts to internal policing, to govern the areas it controlled. This allowed the international community to hold the group accountable for human rights and IHL violations despite the absence of formal recognition as a state. Similarly (Hassanin, Non-State Armed Groups and Human Rights Obligations, 2019, p. 61), local armed groups in the DRC that governed territories for years partially complied with international humanitarian standards, such as treating civilian prisoners with dignity, despite not being parties to any legal instruments (Abu Ghazala A. , Adel. International Humanitarian Law: An Analytical Study on Non-International Armed Conflicts, 2015, p. 102).

2.2.3-Subsection Two: Leadership Responsibility

Leadership bears responsibility for crimes committed by subordinates if it knew, or should have known, of the acts and failed to take measures to prevent or punish them. This responsibility covers individual crimes such as forced recruitment of children, attacks against civilians, torture, and any breach of fundamental humanitarian rules (Sharif, The Legal Corpus of Armed Conflicts and the Hague Tribunal Procedures, 2012, p. 120).

The principle of command responsibility reflects a practical understanding of authority and military organization within armed groups. It is not sufficient for a group to be organized; leaders must have the capacity to exert effective control over subordinates,

including issuing orders, enforcing discipline, or halting violations as they occur.

For instance, the ICTY convicted several commanders based on command responsibility for crimes committed by their subordinates, such as child recruitment and assaults on civilians in conflict zones. In the Syrian conflict, international focus targeted leaders of organized armed groups responsible for severe violations, including the use of civilians as human shields or indiscriminate attacks on civilian areas, holding leadership directly accountable for these crimes (ICTY, *Prosecutor v. Blagojević*, Case No. IT-02-60-T, 2005, 2005, pp. 45-50).

3.3-Section Three: Balancing Sovereignty and Humanitarian Realism

Although states refuse to grant legal recognition to informal armed entities, the realities on the ground necessitate subjecting them to IHL to protect civilians and prevent impunity (Abdul-Raouf M. , *Non-State Armed Conflicts in International Law*, 2013, p. 101). This section demonstrates how international law balances non-recognition of political legitimacy with the imposition of practical obligations to safeguard civilian populations.

1.3.3-Subsection One: Political Non-Recognition versus Legal Obligation

Compliance with IHL does not confer political legitimacy or recognition as an independent entity. The primary objective is civilian protection and closing the legal gap, without transforming the group into a formally recognized international actor (Abu Ghazala A. , Adel. *International Humanitarian Law: An Analytical Study on Non-International Armed Conflicts*, 2015, p. 105).

This distinction reflects the practical nature of international law ; adherence to humanitarian rules does not legitimize the group as a political actor but ensures respect for civilian rights and limits violations, even in disorganized conflict environments. Thus, international law fulfills its humanitarian function without affecting political conflicts or national sovereignty.

For example, in Iraq, armed groups such as Al-Qaeda in Iraq were not internationally recognized but were bound by humanitarian rules in territories they controlled, including civilian protection and prohibition of indiscriminate attacks. In the DRC and Sierra Leone,



armed groups partially complied with international humanitarian standards, such as prohibiting torture or extrajudicial killings, without formal recognition as political entities (Hassanin, *Non-State Armed Groups under International Humanitarian Law*, 2019, p. 62).

2.3.3-Subsection Two: The Application of International Humanitarian Law in Areas under the Control of Non-State Armed Groups

Conflicts in Iraq, Syria, and the DRC demonstrate that IHL applies to armed groups based on effective control rather than legal personality. This reflects the pragmatic character of international law, which seeks to protect civilians even in formally unorganized conflicts.

The application of IHL in these contexts depends on the group's ability to influence its population rather than legal status. The more effective the control over territory and civilians, the greater the group's and its leadership's legal responsibilities, including protecting civilians and preventing crimes (Sassòli, *International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare*, 2019, p. 224).

For instance, armed groups controlling parts of northern Syria imposed limited obligations on civilians, such as prohibiting mass killings and mistreatment of prisoners, under international scrutiny and potential accountability. In the DRC, national and international courts addressed violations by armed groups based on effective authority and practical exercise of force, independent of state or group recognition (Abu Ghazala A. , *International Humanitarian Law: An Analytical Study on Non-International Armed Conflicts*, 2015, p. 107).

This analysis leads to the conclusion that the legal obligation of non-state armed groups is based on three main foundations:

1. **Objective and customary character of international rules:** These apply to all parties, regardless of treaty ratification (Geneva Conventions, 1949, p. 10).
2. **Linking obligation to effective control:** Any group exercising control over territory or population is bound by humanitarian rules (Abu Ghazala A. , *International Humanitarian Law: An*

Analytical Study on Non-International Armed Conflicts, 2015, p. 103).

3. **Necessity to protect civilians and prevent impunity:** Ensuring compliance with IHL does not confer political legitimacy but imposes real legal accountability (Abdul-Raouf M. , Non-State Armed Conflicts in International Law, 2013, p. 100).

This demonstrates that organized use of force or de facto control entails compliance with humanitarian rules, that the absence of formal legal personality does not exempt armed groups from responsibility, and that IHL imposes practical obligations to protect civilians and limit violations (Sassòli, International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare, 2019, p. 226).

Conclusion

The study of non-state armed groups demonstrates that, despite lacking formal legal personality and international recognition, these entities are nonetheless bound by international humanitarian law (IHL) and international human rights law. Their obligations rely on three main elements: the objective and customary nature of international rules, the effective authority and real control over populations or territory, and the urgent need to protect civilians and prevent impunity. Individual criminal responsibility, particularly command responsibility, serves as a fundamental mechanism to ensure compliance with humanitarian norms, even in complex non-international armed conflicts.

Key Findings:

1. International law does not require formal or contractual status to impose obligations on armed groups; rather, it depends on the practical reality of control and organization.
2. Effective authority constitutes a core criterion for determining the scope of compliance with humanitarian rules, linking responsibility to both leaders and individual members.
3. Compliance with IHL does not confer political legitimacy on armed groups, but it achieves the fundamental humanitarian objective of protecting civilians.



4. International jurisprudence, including the ICTY and cases from Sierra Leone and the DRC, highlights the effectiveness of legal mechanisms in holding armed groups and their members accountable.

Recommendations:

1. Strengthen international mechanisms for monitoring violations of IHL by unrecognized armed groups, including technical support for domestic and international courts.
2. Develop training programs and raise awareness among armed groups about fundamental humanitarian rules to reduce violations in conflict areas.
3. Enhance cooperation between the international community and humanitarian organizations to ensure protection and assistance reach civilians in areas under the control of such groups.
4. Incorporate principles of effective authority and individual responsibility more explicitly into national and international policies to guarantee accountability of de facto leaders for violations.
5. Continue developing international jurisprudence to expand civilian protection, especially in unconventional conflicts and complex internal armed conflicts.

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