

Committee: General Assembly 6 - Legal Committee

Agenda Item: Clarifying the Legal Framework Governing the Use of Force in Counterterrorism Operations under the UN Charter

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Introduction

Today, the current global security landscape is increasingly shaped by multinational, widely known terrorist organizations, whose operations frequently go beyond countries' borders and destabilize already fragile regions. As countries attempt to protect their populations and national security, military counterterrorism operations have become increasingly regular, often carried out beyond national borders and without the consent of neighboring Member States. This shift in such powerful and impactful operations has raised questions regarding the legality of using force against non-state, terrorist actors under the United Nations Charter, a document originally written for the regulation of inter-state warfare rather than terrorism globally.

The United Nations Charter prohibits the use of force except in two circumstances: when the United Nations Security Council authorizes the use of force or when it is exercised as an act of self-defense. However, the evolution of terrorism and counterterrorism acts does not seem to fit the United Nations Charter, as it challenges the understandings of armed attack, sovereignty, and self-defense. Member States still lack a universally accepted legal framework that clarifies the legality of counterterrorism measures and cross-border strikes against terrorist groups, or establishes the conditions under which territorial sovereignty may be temporarily disregarded.

Regions affected by terrorism experience long-term instability. Countries affected by such circumstances usually experience fairly long periods of civil unrest. Instability also disproportionately affects young populations by causing limited education, the risk of radicalization, and undermined socioeconomic development. A more developed and coherent legal framework that covers the counterterrorism acts executed by many countries would not only strengthen international stability but also empower future generations to grow in secure and lawful environments.

It is important to define the key legal concepts that directly or indirectly affect counterterrorism operations under the UN Charter. Therefore, Member States may agree upon a revised legal framework to address rising disputes surrounding the aforementioned national security topics. As transnational terrorist organizations increase their capacity to conduct attacks within or across borders, states are left uncertain about whether and when international law permits military action against unlawful groups outside their territory. This uncertainty fuels geopolitical tensions, creates uneven or even unlawful state practices, and risks of the misuse of force under claims of security. Without a consistent set of rules, counterterrorism measures may undermine stability, escalate conflicts, and affect vulnerable groups such as the youth population.

Definition of Key Terms

Sovereignty: Sovereignty is the full authority a state has to govern itself without external control. It includes making laws, protecting borders, and making independent national decisions. (Cambridge Dictionary)

Cross-Border Operations: Military or security actions carried out by one state inside the territory of another state, often used against armed groups that operate beyond national boundaries. (Oxford Public International Law)

Unilateral Action (Cross-Border Strikes): A decision or operation taken by a state without approval or cooperation from other countries or international institutions, commonly criticized when used to justify military action abroad. (Cambridge University Press – International Relations Glossary)

Non-State Actor: Non-state actors (NSAs) are influential organizations that are not controlled by or affiliated with a recognized government. Common examples of non-state actors include privately owned financial institutions, corporations, business entities, and non-government organizations (NGOs) (EBSCO).

Territorial Integrity: Territorial integrity is the principle that a state's borders and land cannot be violated or changed by other states, meaning no foreign actor may interfere without permission (Oxford Public International Law).

Host-State Consent: Host-state consent is the formal approval given by a government allowing another state to conduct military or security operations inside its territory.

Major Actors Involved

The United States of America (USA)

The USA carries out frequent counterterrorism acts in cross-border countries and strongly argues self-defense can apply against non-state actors abroad, under the UN Charter where a state is unable or unwilling to stop terrorists. This position gives the USA wide freedom to use force abroad.

Russian Federation

Russia justifies their counterterrorism operations in Syria through host-state consent, mainly shown through its intervention in Syria after receiving a formal request from the Syrian government. Russia says that broad claims of self-defense might be exploited by other countries for political purposes and believes that sovereignty must and always come first.

The French Republic

Targeting organizations such as al-Qaeda and ISIS affiliates, France is actively engaged in counterterrorism in Sahel. It makes the case that the region's weak governments necessitate cross-border operations, but it also advocates for more precise international regulations to direct such activities.

People's Republic of China (PRC)

China claims that only the UNSC or the host nation may authorize military action and opposes unilateral cross-border strikes in other countries. They are concerned that expansive readings of self-defense might be applied to meddle in domestic matters and may cause security concerns for other countries, such as its own.

International Court of Justice (ICJ)

The International Court of Justice (ICJ) offers legal opinions about the use of force against terrorist groups, but it has not established a clear rule for self-defense against terrorist organizations alone. Although strong governments may not usually follow the Court's rulings, nations frequently use and cite ICJ cases to bolster their claims.

Republic of Iraq

Due to terrorist organizations operating within its borders, particularly in the north and west, Iraq has numerous security issues. It occasionally permits assistance from other states, but it also denounces unapproved activities that it feels infringe upon its sovereignty.

ISIS

It is challenging for states to react without entering another nation since ISIS hides, recruits, and launches attacks in areas with weak borders and failing states. One of the key causes of the current legal framework's ambiguity is its cross-border nature.

General Overview of the Issue

The use of force in counterterrorism operations is shaped by a legal system that was created long before modern terrorism emerged as a global threat. When the United Nations Charter entered into force in 1945, international security concerns revolved around state militaries, territorial conflicts, and international warfare. Terrorist organizations today do not operate like states and do not follow traditional military structures, yet they are capable of carrying out large-scale attacks that effectively destroy entire regions. The absence of explicit rules in the UN Charter, despite amendments made in 1963, 1965, and 1973, concerning non-state armed groups, has created uncertainty over how international law decides upon military responses of nations to terrorism and unnecessary tensions between countries.

The UN Charter establishes the foundational rules about the use of military force, but does not really specify how states should respond to violent threats that do not create an immediate need for self-defense, as stated in the UN Charter. The Charter focuses on protecting territorial integrity and regulating inter-state behaviors, which leaves a gap in legal interpretation when a state seeks to prevent attacks by groups that operate independently of governmental control. As a result, states see the Charter differently when attempting to justify military action against terrorist organizations.

Many terrorist groups operate within regions where governmental institutions lack control over the country's territory, border security, or armed violence. These conditions enable armed organizations to establish training camps within the territories of another country, control local populations, and coordinate attacks against them. Because local governments lack the capacity to remove these organizations from their lands, the question arises whether foreign states may conduct operations in such regions without a legal formula for doing so. Additionally, this creates a legal paradox, as international intervention in another country's territory without explicit consent is a direct breach of national sovereignty; however, if third-party actors execute no intervention, the country in question is almost guaranteed to suffer from numerous problems, including civilian deaths, governmental instability, and many more.

The UNSC is known for frequently adopting resolutions against terrorism, urging cooperation between Member States to prevent any breaches of sovereignty related to terrorism, imposing sanctions, and increasing capacity. However, these decisions do not help most of the time, and when they do, the benefits are usually short-lived. Such resolutions emphasize political obligations on the international scale, coordination, and responsibility, but fail to create a detailed legal framework for states conducting cross-border counterterrorism operations. The absence of procedural clarity leaves states with political guidance without legality.

International law traditionally measures armed conflicts through visible indicators: troop deployment rate, territorial occupation, or declared hostilities. Terrorist organizations, however, operate through intricate networks, remote attacks, digital coordination/attacks, and other techniques like causing disturbance in highly populated areas. For international law, this makes the threshold for an “armed attack” difficult to define. Through the ways terrorist organizations operate, they successfully remain outside the criteria required for recognized Member States to take armed action against another party. In addition, as online threats begin producing offline violence, military decisions may rely on predictions rather than aggression towards a terrorist organization, once again undermining the partially outdated UN Charter.

The lack of clear legal standards surrounding the agenda not only risks unlawful military overreach but also influences how communities perceive security. Counterterrorism missions conducted in ambiguous places place civilians between unpredictable responses from countries and non-state terrorist violence. In regions with predominantly youth populations, this environment negatively affects stable development, exposes communities to radical efforts, and undermines public trust in lawful governance. Without legal clarity, security responses risk producing long-term instability instead of protection.

Nowadays, many armed groups behave like states without claiming to be. They unlawfully tax populations, manage territory, enforce rules, and collect resources just like governments. This “semi-sovereign” behavior also challenges the Charter, along with acts of counterterrorism, as the Charter only recognizes states as actors that can legally wage war or be targeted in war. The international system, therefore, cannot recognize armed groups that govern but are ultimately not states, leaving a gap in the UN Charter that requires immediate clarification in the international legal framework.

Private military companies, drone contractors, cyber-surveillance firms, and intelligence vendors increasingly participate in counterterrorism operations without being held up to the same legal standards as Member States that are bound to the UN Charter. The involvement of these companies affects whether military force can be attributed to public authority or the private sector. This gap once again raises questions about accountability, legal responsibility for civilian harm, and whether these actors can operate legally outside the Charter's boundaries.

Some terrorist operations do not physically cross borders or execute other means of terrorism, like causing disturbance in densely populated areas, as mentioned above. Instead, they disable infrastructures, leak state data, or manipulate financial systems through digital attacks. Since Article 51 of the UN Charter historically defines "armed attack" as physical force, cyberattacks that threaten healthcare systems, transport networks, or national security create a legal loophole that should be amended in the UN Charter. Although many other international legal frameworks try to tackle this by including new elements in the legal text, it is important to change the UN Charter accordingly as well.

Armed groups recruit, radicalize, and coordinate internationally without needing physical bases. Online spaces serve as a digital haven for operations of many sorts. The Charter assumes that the sovereign borders of states regulate security threats. Still, online operations, as mentioned, ignore those borders entirely, raising the question of which territory's law applies to a threat that does not originate from a specific location. Some particular examples of this legal loophole are ISIS recruitment and propaganda on Telegram, which no country's laws can apply to due to such a program not having a base location; or Al Qaeda's online training manuals, which were a multilingual online manual teaching surveillance evasion, improvised weapons, and cybersecurity, which, for the same reason, can not be punished accordingly to a certain country's rules.

Regions affected by terrorism are harmed not only by extremist groups but by states acting without legal clarity. When force is used without defined legal boundaries, counterterrorism missions can destabilize regions for decades, creating cycles of violence similar to those produced by the armed groups they target. This dual harm showcases that the lack of legal standards is not a theoretical issue that stays on paper, but it produces security crises equal to the ones it attempts to prevent. In Nigeria, Boko Haram's constant attacks destabilize schools, markets, and villages; however, on the other hand, state counterterrorism raids have also led to civilian mass detentions, extrajudicial (unlawful) killings, and farm destruction. The result is that local populations currently fear both Boko Haram and military units, demonstrating dual harm in the region. Or for instance, Egypt suffers from extremist groups that operate in the Sinai Peninsula, where counterterrorist military intervention has displaced thousands of citizens and closed critical supply routes.

Overall, counterterrorism today functions in an incomplete legal framework that does not match the realities of modern terrorist organizations. Extremist organizations rely on digital platforms, unstable territories, and governing videos, and youth-focused recruiting strategies, while unclear rules for the use of force, especially the outdated UN Charter, allow states to intervene without consistent oversight. Such a dual structure of violence, one emerging from terrorism and the other from unregulated counterterrorism, deepens insecurity in many regions. The UN Charter's framework must therefore be amended to address non-state actors, cross-border operations, and civilian protection as the main elements of national security. Without legal clarity that prioritizes both public safety and lawful conduct of counterterrorism, Member States' efforts in fighting disruptive parties remain an unfeasible practice.

Timeline of Important Events

Date:	Event:
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26 June 1945	The United Nations Charter was signed, establishing Article 2(4) as a prohibition on the use of force and Article 51 as a provision for self-defense.
17 December 1963	Amendments to Articles 23 and 27 in the UN Charter expanded the UNSC from 11 to 15 members, but failed to modify rules regarding the use of force as acts of counterterrorism. This was the first example of an amendment made to the UN Charter.
7 December 1985	The United Nations General Assembly (UNGA) Resolution 40/61 addressed terrorism as a threat, but failed to impose binding responsibilities on states due to UNGA's structure.
11 September 2001	Terrorist attacks in the USA on the World Trade Center prompted NATO to invoke Article 5 for the first time, which expanded the concept of collective defense against terrorism beyond the UN Charter.
28 September 2001	UNSC Resolution 1373 requires states to act against terrorism through sanctions, criminalization, and cooperation, but it avoids regulating the use of force; the legal gap persists.
2 May 2011	The killing of Osama bin Laden in Pakistan without consent triggered a global debate over cross-border operations, showing how states act outside Charter clarity while claiming self-defense.
14 December 2015	The establishment of the UNSC

	Resolution 2253 expanded sanctions against ISIS and Al-Qaeda, but still does not define lawful conditions for military counterterrorism forces.
9 February 2018	The ICJ, in the Armed Activities Case (DRC v. Uganda), determined that self-defense cannot justify military intervention against non-state groups on foreign soil without a clear legal basis, thereby highlighting the gap instead of resolving it.
2020 - Present	States increasingly use drones, cyber tools, and remote strikes against non-state actors. Despite technological advancements, no amendment or UN instrument has updated the Charter to address military responses against decentralized armed groups.

Related Documents

[The UN Charter](#)

The foundational legal rules governing the use of force and self-defense. The Charter does not clarify whether attacks by non-state armed groups can justify military action, leaving counterterrorism practices without a definitive legal framework.

[UNSC Resolution 1373](#)

Adopted after the 11 September attacks, this resolution created binding obligations for states to combat terrorism through cooperation, sanctions, and border control. It regulates preventive measures but does not establish legal standards for extraterritorial military operations.

[UNSC Resolution 2253](#)

Expands sanctions and monitoring mechanisms against ISIS and associated groups, emphasizing intelligence sharing and financial restrictions. The resolution focuses on non-military enforcement, continuing the absence of criteria for lawful use of force.

[ICJ — Armed Activities on the Territory of the Congo \(DRC v. Uganda\), 2005 & 2018 Interpretation](#)

The Court ruled that self-defense cannot automatically justify the use of force against non-state actors in foreign territory. It reinforces state sovereignty but offers no detailed guidance for lawful counterterrorism operations, preserving ambiguity.

[International Convention for the Suppression of the Financing of Terrorism](#)

A binding treaty obligating states to criminalize the financing of terrorism and cooperate on prosecution. It effectively targets logistical support but excludes military responses, demonstrating how international counterterrorism remains dominated by non-force regulation.

Past Solution Attempts

[UNSC Resolution 1368\(2001\)](#)

This resolution was passed immediately following the events of 9/11. It stated that when terrorists attack a nation, that nation has the right to defend itself. For the first time, the UN hinted that terrorist organizations might be covered by self-defense. However, different countries read it differently because it did not specify what constitutes a terrorist "attack" or when a nation may use force in another nation.

UNSC Resolution [1373\(2001\)](#)

This resolution instructed all nations to halt the funding, travel, and networks of support for terrorism. Although it enhanced collaboration in the fight against terrorism, it did not specify when nations may employ military action or breach international borders in the name of counterterrorism. As a result, it aided in prevention but not in adhering to the law on the use of force.

UN Global Counter-Terrorism Strategy (2006)

This was the first global strategy to combat terrorism. It prioritized human rights protection, collaboration, and prevention. The primary issue, meanwhile, was not addressed: under what circumstances is it lawful for a nation to use force against terrorists? It did not resolve the issue because it circumvented this obstacle and was not legally binding.

Counter-Terrorism Committee Executive Directorate (CTED)

CTED was established to verify whether nations adhere to UN counterterrorism regulations. It facilitates information sharing and legal improvement between nations. However, CTED is unable to provide formal answers about the permissible use of military force. As a result, it promotes counterterrorism initiatives but leaves the legal guidelines on the use of force unclear.

ICJ Case: [Armed Activities on the Territory of the Congo \(2005\)](#)

The International Court of Justice ruled that Uganda's claim of self-defense against rebel groups was insufficient justification for entering the Congo. Strict adherence to national borders was encouraged by the ruling. Nonetheless, nations confronting contemporary terrorist threats frequently disregard this decision, claiming it does not accurately reflect the reality of transnational terrorism.

Possible Solutions

While many attempts have failed to set clear rules about when countries can use force against terrorist groups in the name of self-defence, clear rules on this issue are a must to solve this issue. These rules need to specifically explain what an attack is, when a country can claim self-defence, and when it is acceptable to act inside another country's borders. While mediation efforts in conflict areas could lessen the environment that allows terrorism to spread, a common worldwide database on terrorist activity could assist states in making better decisions. Additionally, the UN may assist weaker governments by providing military officers with international law training and enhancing their border-control technology. Lastly, by enhancing initiatives to prevent radicalization online, the UN may contribute to long-term terrorism prevention by reducing the number of scenarios that first call for military intervention.

Useful Links

[United Nations Charter](#)

[UN Security Council, Counter-Terrorism Committee](#)

[UN Security Council Resolution Database](#)

[International Committee of the Red Cross \(ICRC\) — Use of Force & Armed Conflict](#)

[United Nations Office of Counter-Terrorism \(UNOCT\)](#)

[UN Global Counter-Terrorism Strategy](#)

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