



LEGAL

TALMUN'26

Agenda Item: Estimating the Lawfulness of Extraterritorial Military Operations and Evaluating the Use of Destructive Force Beyond Armed Conflict Under International Law

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1. Letter from the Head of Academy

Dear Delegates,

With my absolute pleasure, I would like to extend a heartfelt welcome to each delegate who is participating in the third edition of TAL Model United Nations. As this conference's Head of the Academy, I can indicate that I am beyond agitated to witness your commitment and the talent in the matter of diplomacy that you will debate in this year's event.

This year, as we continue our academic journey in high dedication with six new committees. Some will highlight the global challenges that the people of today face everyday, while others aim to take you into worlds of pure imagination created by our imaginative team. Across this journey, I full-heartedly believe that you will find ways to overcome the tests awaiting you by utilizing your critical thinking skills.

As you step into the world of Model United Nations, I profoundly encourage you to think like diplomats and approach the agenda with creativity and resilience. Never forget that the new acquisitions you will gain during the conference will not only stay here; they will also stay with you and continue to help you during your life experiences, inspiring new generations.

Thank you all for being a part of this journey. I wish you all a delightful conference that pleases you both academically and socially. Remember that you are the ones who will make this path unforgettable for yourselves. If you ever need any further assistance, please do not hesitate to reach out to me.

Best Regards,

Yağmur AKYURT

Head of Academy

yagmurakyurt0@gmail.com

2. Letter from the Under Secretary General of LEGAL

Dear Delegates,

It is my pleasure to welcome you to the Legal Committee of TALMUN'26. As the Under-Secretary-General of this committee, I am honored to introduce the agenda item entitled “Estimating the Lawfulness of Extraterritorial Military Operations and Evaluating the Use of Destructive Force Beyond Armed Conflict Under International Law.”

Through this agenda, I invite all delegates to critically examine one of the most complex and controversial issues within international law. The increasing prevalence of extraterritorial military operations has raised significant legal concerns regarding state sovereignty, the prohibition on the use of force, and the scope of lawful self-defense under the United Nations Charter.

Please give attention to the legal framework governing the use of force, including Article 2(4) and Article 51 of the UN Charter, international humanitarian law, and international human rights law. In addition, delegates are expected to assess emerging legal approaches and state practices such as the “unable or unwilling” doctrine, targeted killings, use of armed drones in military operations, and accountability mechanisms for the use of destructive force across borders.

I believe that discussions throughout TALMUN'26 will feature in-depth legal analysis, innovative arguments, and productive collaboration. I wish you all a successful and academically productive committee process. You can contact me if you have any questions via the e-mail address below.

Sincerely

Nehir Çetinalp

Under Secretary General of LEGAL

nehircetinalp2009@gmail.com

3.Introduction to the Committee

a. What is LEGAL?

The Legal Committee is the Sixth Committee of the United Nations General Assembly. It is the primary forum for examining and advancing legal issues in the Programme of the General Assembly throughout all countries and regions. In particular, LEGAL provides member states with a structured platform to deliberate on international legal frameworks to establish a global rule of law and address issues like state sovereignty, immunity, and the resolution of disputes.

4. Introduction to the Agenda Item

a.UN Charter and the Prohibition on the Use of Force

The United Nations Charter is one of the foundational instruments of international law and aims to maintain international peace and security. In this context, Article 2(4) of the UN Charter establishes a general prohibition on the threat or use of force by states in their international relations against the territorial integrity or political independence of any state. This prohibition encompasses the use of lethal force, including military operations conducted across borders, and is widely regarded as a norm of customary international law.

Nevertheless, the UN Charter recognizes a limited number of exceptions to this general rule. The most significant exception is the inherent right of self-defence under Article 51. A state may resort to lethal force only in response to an armed attack, provided that such use of force complies with the principles of necessity and proportionality. Additionally, any measures taken in self-defence must be immediately reported to the United Nations Security Council.

A second exception arises when the UN Security Council authorizes the use of force under Chapter VII of the UN Charter. In situations where there is a threat to international peace and security, the Security Council may permit collective military action. In such cases, the use of lethal force is considered lawful as part of the UN's collective security system.

In conclusion, under international law, the use of lethal force by states is primarily prohibited and permitted only in exceptional circumstances subject to strict legal conditions. These rules are designed to prevent arbitrary uses of force and to safeguard international peace and security.

i. Exceptions: Self-defence and Security Council Authorization

Despite the prohibition on the use of force or the threat of force contained in Article 2(4) of the United Nations Charter, international law recognizes a limited number of exceptions where the use of lethal force may be considered lawful. These exceptions are interpreted

narrowly in order to prevent abuse and to uphold the fundamental purpose of the Charter, which is the maintenance of international peace and security. In this context, there are two fundamental exceptions: the right to self-defense and the use of force authorized by the United Nations Security Council.

The right to self-defense is regulated in Article 51 of the UN Charter, which states that the individual or collective right to self-defense remains reserved in the event that a UN member state is subjected to armed attack. In this context, the use of lethal force is only permissible in response to an actual armed attack and without being used as a means of retaliation or political pressure. Furthermore, the use of legitimate defense is strictly bound by the principles of necessity and proportionality. The principle of necessity requires the use of force when the threat cannot be averted by other means, while the principle of proportionality requires that the scope, duration, and intensity of the force used be limited to what is necessary to repel the attack.

Besides these material conditions, Article 51 also imposes important procedural obligations on states. All measures taken in the context of legitimate defense must be immediately reported to the United Nations Security Council. This reporting obligation ensures transparency and allows the Security Council to assess the situation. When the Security Council takes necessary measures to maintain international peace and security, the collective security mechanism should replace the individual right to self-defense.

The second fundamental exception to the use of lethal force is the authorization of the use of force by the United Nations Security Council under Chapter VII of the UN Charter. Under Articles 39 and 42 of the Charter, the Security Council may determine the existence of a threat to peace, a breach of peace, or an act of aggression and decide on collective measures, including the use of military force. In such cases, the use of lethal force is considered lawful because it is evaluated as part of the collective security system, not as a unilateral state interest. The Security Council authorization provides an important legal framework that ensures the use of lethal force is subject to international oversight. Military operations conducted under this authorization must remain within the objectives and limits of authority set by the Council and must also comply with the rules of international humanitarian law and international human rights law. This collective security mechanism reflects the importance the Charter attaches to multilateralism and aims to limit the arbitrary use of force.

ii. Distinction Between Use of Force and Use of Lethal Force

In international law, the concepts of the use of force and the use of lethal force are interrelated, but they differ significantly in scope and consequences. The use of force is a general concept referring to actions taken by one state against another that involve military or physical coercion. Article 2(4) of the United Nations Charter prohibits states from using force or threatening to use force against the territorial integrity or political independence of another state in their international relations. In this context, the use of force also includes actions that do not always directly result in loss of life, such as the deployment of military forces across

borders, air and sea space violations, armed deterrence activities, or limited military interventions.

In contrast, the use of lethal force constitutes a narrower and more severe subcategory of force. Lethal force refers to the use of force that, by its nature, directly endangers human life and is capable of foreseeably resulting in death or serious injury. Air strikes, missile strikes, targeted attacks carried out by armed unmanned aerial vehicles, and lethal fire in ground operations fall within this scope. Therefore, the use of lethal force has consequences that directly affect not only state sovereignty however also the right of to life.

This distinction is legally significant. While every use of lethal force is also considered an exercise of force, not every exercise of force is lethal in nature. The irreversible consequences of lethal force have led international law to impose stricter conditions on such actions. Therefore, the legality of lethal force, particularly in non-armed conflict situations, is subject to much stricter principles of necessity, proportionality, and being a last resort.

b. State Sovereignty and the Principle of Non-Intervention

State sovereignty is one of the cornerstones of international law and refers to a state's exclusive authority over its territory, population, and internal affairs. Closely related to this is the principle of non-intervention, which prohibits states from coercively interfering in matters falling within another state's internal jurisdiction. These principles are explicitly stated in the United Nations Charter, particularly in Article 2(1), which regulates sovereign equality, and Article 2(4), which prohibits the threat or use of force against the territorial integrity or political independence of any state. As emphasized in the International Court of Justice's decision in *Nicaragua v. United States of America*, military or paramilitary activities conducted by one state on the territory of another state without its consent generally constitute unlawful interference and a violation of sovereignty.

Military operations across borders involving the use of destructive force, except in situations of armed conflict, raise particularly serious issues under international law. The prohibition on the use of force in international law applies regardless of whether an armed conflict exists. Therefore, any military activity across borders can only be considered lawful if it is based on one of certain and limited exceptions. These exceptions are the explicit consent of the relevant state, authorization by the United Nations Security Council, or the exercise of the right to self-defense under Article 51 of the UN Charter. In the absence of one of these legal bases, cross-border military actions such as air strikes, drone strikes, or special forces operations violate both state sovereignty and the principle of non-intervention.

The justification of the use of force beyond borders as legitimate self-defense is controversial, especially when the threat originates from non-state actors operating on the territory of another state. Some states argue that the use of force is legitimate if the state concerned is unwilling or unable to prevent such threats. However, the "unwilling or unable" doctrine is not universally accepted, and there is no consensus that it has a solid basis in international

law. The International Court of Justice interprets the concept of legitimate defense narrowly, requiring that an armed attack have occurred and that the measures taken meet the conditions of necessity and proportionality. A broad interpretation of legitimate defense carries the risk of weakening the prohibition on the use of force and jeopardizing the stability of the international legal order.

International humanitarian law does not apply to cross-border military operations conducted outside of armed conflict; in such situations, the use of force is primarily governed by international human rights law. Within this framework, the use of lethal or destructive force is only permissible as a last resort to protect life and only to the extent that it is strictly necessary and proportionate. Targeted killings or air strikes carried out abroad, particularly in situations where capture or less harmful measures are possible, struggle to meet these criteria. Furthermore, when a state exercises de facto authority or control over individuals, human rights obligations may apply beyond its borders; therefore, states cannot avoid legal responsibility by acting outside their own territory.

To conclude, international law imposes strict limitations on cross-border military operations and the use of destructive force outside of situations of armed conflict. State sovereignty and the principle of non-intervention continue to serve as fundamental safeguards against unilateral military action. In the absence of valid consent, Security Council authorization, or a narrowly interpreted right of self-defense, such operations constitute unlawful use of force and a violation of sovereignty. Respect for these legal restrictions is vital to maintaining the international legal order, which aims to limit the use of force and preserve international peace and security.

c. The Right of to Life and Standards for the Use of Lethal Force

The use of force and firearms has the potential to infringe on the right to life, which is often described as a right without which all other rights would have no meaning. The right to life is protected by article 3 of the Universal Declaration of Human Rights and article 6(1) of the ICCPR, which provides that: “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life”.²⁰ The right not to be arbitrarily deprived of life implies that the right to life is not absolute, as indeed some deprivations of life may be non-arbitrary. However, even those exceptional measures leading to deprivations of life which are not arbitrary per se must be applied in a manner which is not arbitrary in fact. Such exceptional measures should be established by law and accompanied by effective institutional safeguards designed to prevent arbitrary deprivations of life. In international law, the right to life includes protection against arbitrary deprivation of life by State security forces.

The prohibition on arbitrary deprivation of life is absolute and non-derogable, and is a rule of customary international law. The prohibition must be respected at all times: no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political

instability or any other public emergency, may be invoked as a justification of arbitrary deprivation of the right to life.

The right to life is also reflected in the BPUFF, stating that “law enforcement officials have a vital role in the protection of the right to life, liberty and security of the person”. Principle 9 further provides that the use of lethal force may not be applied in any situation where it is not strictly necessary to save lives. The use of force that results in the death of a subject could therefore, depending on the circumstances, amount to a gross human rights violation.

Standards must be established regarding the use of lethal force by law enforcement agents in juxtaposition to the right to life. Internationally agreed guidelines on this issue reinforce existing national guidelines, serve as a benchmark against which national standards can be gauged, and provide a point of reference in the establishment or improvement of standards in individual countries.

The International Covenant on Civil and Political Rights explicitly recognizes the right to life and obliges States to enact laws guaranteeing that right and ensuring that individuals are not arbitrarily deprived of their right to life. The European Convention on Human Rights specifically mentions the circumstances under which the taking of life will not contravene the Convention; these include defending a person from unlawful violence, effecting a lawful arrest, or lawfully quelling a riot or insurrection. The United Nations and the Council of Europe have both adopted an ethical text for law enforcement officials. The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders includes Basic Principles concerning the whole question of force and firearms use by law enforcement agents; the text includes provisions relating to unlawful assemblies, policing procedures for persons in custody or detention, qualifications and training, and reporting and review procedures.

d. Necessity, Proportion and Precaution

The principle of proportionality as it applies to use of force in law enforcement is often misunderstood. Proportionality does not mean that force must be used by a law enforcement official in strict accord with any use of force continuum (where the level of force is raised in stages), or as a like response to violence from a criminal suspect. Instead, it sets a ceiling on what amounts to lawful use of force, in accord with the threat posed by an individual or group of individuals and the offence that has been or is about to be committed.

According to the commentary on Article 3 of the 1979 Code of Conduct, "National law ordinarily restricts the use of force by law enforcement officials in accordance with a principle of proportionality. It is to be understood that such national principles of proportionality are to be respected in the interpretation of this provision. In no case should this provision be interpreted to authorize the use of force which is disproportionate to the legitimate objective to be achieved." Similarly, according to Principle 5 of the 1990 Basic

Principles, "Whenever the lawful use of force and firearms is unavoidable, law enforcement officers shall ... act in proportion to the seriousness of the offence and legitimate objective to be achieved."

Proportionality only comes into play if the principle of necessity is respected. Thus, the use of force must already be necessary in the circumstances and the force actually used must be no more than the minimum necessary to achieve a legitimate law enforcement objective. The principle of proportionality may act to render such "necessary" force unlawful.

The principle of precaution underpins the principles of necessity and proportionality. Under the principle of precaution, the state is duty bound to plan law enforcement operations in a manner that minimizes the risk of law enforcement agencies and officials having recourse to potentially lethal force. The rationale is to limit the risk of death or serious injury to any member of the public or law enforcement official. According to Principle 5(b) of the 1990 Basic Principles, whenever lawful use of force and firearms is unavoidable, law enforcement officials must "minimize damage and injury" and "respect and preserve human life". But measures need to be taken "upstream" in the operational planning phase to "avoid situations where the decision on whether to pull the trigger arises, or to ensure that all the possible steps have been taken to ensure that if that happens, the damage is contained as much as is possible."

The precautionary principle was first enunciated by the European Court of Human Rights in its 1995 Grand Chamber judgment in the *McCann v. United Kingdom* (No. 18984/91) case: "the Court must carefully scrutinise ... not only whether the force used by the soldiers was strictly proportionate to the aim of protecting persons against unlawful violence but also whether the anti-terrorist operation was planned and controlled by the authorities so as to minimise, to the greatest extent possible, recourse to lethal force" (para. 194). The Inter-American Court of Human Rights has held that proportionality "is also related to the planning of preventive measures, since it involves an assessment of the reasonableness of the use of force. Thus, it is useful to analyze the facts rigorously to determine ... whether the violations could have been avoided with the implementation of less harmful measures."

In addition, with a view to preserving life, according to Basic Principle 5(a) of the 1990 Basic Principles, law enforcement officials must also ensure that "assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment". This must equally be part of the planning process for law enforcement operations. In the *Finogenov v. Russia* case (No. 18299/03) in 2011, the European Court of Human Rights examined whether the hostage rescue operation was planned and implemented in compliance with the authorities' positive obligations under the right to life in Article 2 of the 1950 European Convention on Human Rights, "namely whether the authorities took all necessary precautions to minimise the effects of the gas on the hostages, to evacuate them quickly and to provide them with necessary medical assistance" (para. 237). The duty to assist applies even if the injured person is a suspected offender.

e. Targeted Killings and Drone Operations

The evolution of modern warfare, marked by the rise of non-state actors and rapid technological development, has raised serious challenges for international law. Targeted killings and the increasing use of armed drones (RPAs) involve the deliberate use of lethal force against specific individuals, often outside active conflict zones and sometimes without the consent of the territorial state.

These practices create legal uncertainty over whether international humanitarian law or international human rights law should apply. Key concerns include respect for the right to life, due process, and the principles of necessity and proportionality. In addition, the remote nature of drone operations reduces risk for the acting state but may also weaken transparency and accountability, making targeted killings one of the most debated issues in extraterritorial military operations.

i. Definition and Legal Status of Targeted Killings

In ordinary language the expression 'targeted killing' can mean every intentional killing of individually selected persons. Recent political and legal discourse, however, uses the term in a narrower sense as describing a State practice to intentionally kill individually selected persons who neither pose an immediate threat to the life or limb of other persons, nor are executed in enforcement of a death penalty pronounced after criminal proceedings. Other expressions for such practice are, inter alia, assassination, pre-emptive or preventive killings, extra-judicial executions, and extra-judicial killings. Targeted killing has come to be the most frequently used term. Targeted killing is not a legal term of art and does not, as such and as some of the other expressions do, denote whether a particular act of killing is legal or not. Unlike traditional battlefield engagements, these operations often occur away from active "hot" combat zones.

The Legal Framework: IHL vs. IHRL

The legality of targeted killings is determined by which body of law applies to the situation:

International Humanitarian Law (IHL): Applied during an Armed Conflict. For a targeted killing to be lawful under IHL:

The target must be an authorized military objective (a member of an armed force or a civilian directly participating in hostilities being an example).

The operation must adhere to the principles of Distinction, Proportionality, and Military Necessity.

The Controversy: Some states argue for a "Global Battlefield" theory, suggesting that they can target "terrorists" anywhere in the world, while legal scholars argue IHL is restricted to specific geographical zones of conflict.

International Human Rights Law (IHRL): Applied in situations outside of armed conflict (counter-terrorism in a peaceful state as an example). Under IHRL:

The Right to Life is paramount.

Lethal force is only lawful if it is strictly necessary to protect against an imminent threat to life and when capture is impossible.

Many targeted killings are viewed as extrajudicial executions under this framework because they bypass due process.

ii. Use of Armed Drones in Military Operations

The primary role of armed drones in modern military operations is to carry out military tasks without putting personnel directly at risk, thereby reducing casualties among the acting state's forces. While early drones, first used during World War II, mainly served as training targets for fighter pilots and air defense systems, modern drones have evolved into highly capable platforms used for intelligence gathering, surveillance, reconnaissance, targeted strikes, logistics support, and counter-terrorism operations.

In contemporary practice, armed drones are increasingly used outside traditional armed conflicts, raising important legal questions. For example, during the 2000s and 2010s, the United States conducted numerous drone strikes in Pakistan and Yemen, targeting suspected terrorist leaders despite the absence of a formally declared war. These operations were justified as acts of self-defence against non-state actors, but were criticized for violating state sovereignty and causing civilian casualties.

The widespread use of armed drones has changed the nature of military operations by making the use of force more accessible, precise, and remote. However, this has also lowered the political and operational costs of using lethal force, potentially increasing its frequency. The lack of clear international rules regulating drone use outside armed conflict has created legal uncertainty, particularly regarding accountability, transparency, and the protection of civilians. As a result, the use of armed drones remains one of the most debated issues in assessing the legality of extraterritorial military operations under international law.

Key Legal and Ethical Challenges:

The Lowered Threshold for Conflict: Critics argue that drones make the usage of force "too easy." By removing the political and physical risk of losing soldiers, states may be more inclined to resort to lethal force rather than diplomatic or law enforcement alternatives.

The "Unwilling or Unable" Doctrine: A major point of contention is whether a state can launch drone strikes on another state's territory without consent. Some states invoke the "unwilling or unable" doctrine, claiming they have a right to strike if the host state cannot or will not neutralize a threat. This is often seen as a violation of Article 2(4) of the UN Charter (Territorial Integrity).

Precision vs. Accountability: While proponents claim drones reduce "collateral damage," the lack of transparency regarding "Signature Strikes" (targeting individuals based on patterns of behavior rather than identified identity) raises serious concerns about civilian casualties and war crimes.

The Issue of Transparency: Drone programs are often shrouded in secrecy, conducted by intelligence agencies (like the CIA) rather than traditional military branches. This creates a "legal black hole" where it is nearly impossible to hold states accountable for errors or violations of international law.

f. Violations of Sovereignty and Legal Consequences

Extraterritorial military operations conducted without the consent of the territorial state raise serious concerns under international law, as they may constitute a violation of state sovereignty and undermine the principles of territorial integrity and non-intervention. Such actions can also conflict with the prohibition on the use of force set out in the United Nations Charter, unless they are clearly justified under recognized exceptions such as self-defence. When sovereignty is violated, the acting state may incur international legal responsibility, including obligations to cease the unlawful conduct, prevent its recurrence, and provide appropriate reparations. In addition, these operations may trigger human rights concerns, particularly where the use of lethal force results in civilian casualties or violations of the right to life, further complicating the legal assessment of extraterritorial military actions.

i. Violation of State Sovereignty

State sovereignty is one of the most fundamental principles of international law. It refers to the right of every state to exercise exclusive authority over its own territory, government, and internal affairs, free from external interference. This principle is clearly reflected in Article 2(1) of the United Nations Charter, which recognizes the sovereign equality of all states and forms the basis of peaceful international relations.

When a state conducts military operations or uses lethal force within the territory of another state without that state's consent, such actions are generally considered a violation of sovereignty. This is particularly true in situations where there is no ongoing armed conflict between the states involved. Common examples include drone strikes, targeted killings, and cross-border special forces operations, which raise serious legal concerns due to their unilateral nature.

These actions may also violate Article 2(4) of the UN Charter, which prohibits the threat or use of force against the territorial integrity or political independence of any state. Despite this prohibition, some states attempt to justify such operations by invoking self-defence under Article 51, claiming they are responding to an imminent or ongoing threat. Others rely on the

“unable or unwilling” doctrine, arguing that the territorial state is unable or unwilling to prevent harmful acts from its territory. However, these justifications remain highly contested, lack clear acceptance under customary international law, and continue to generate debate regarding the limits of lawful self-defence and respect for state sovereignty.

ii. State Responsibility for Acts

When a violation of sovereignty occurs, the acting state may incur state responsibility under international law. According to the International Law Commission (ILC) Articles on State Responsibility (2001), a state is internationally responsible when a wrongful act is attributable to the state and constitutes a breach of an international legal obligation. Military operations conducted by state armed forces, intelligence agencies, or government officials are generally attributable to the state and therefore fall within this framework.

Once state responsibility is established, the responsible state is required to cease the unlawful conduct and provide assurances and guarantees of non-repetition. In addition, international law requires the state to make full reparation for the injury caused. Reparations may take different forms, including restitution, financial compensation, and satisfaction, such as official apologies or acknowledgements of wrongdoing. These measures aim to restore the legal position of the injured state and reinforce respect for international law.

Beyond state responsibility, the extraterritorial use of lethal force may also give rise to individual responsibility. If civilians are unlawfully killed or if serious human rights violations occur, military commanders, political leaders, or other officials may be held accountable under international human rights law. In the most serious cases, such conduct may fall under international criminal law, particularly when it involves grave breaches such as war crimes or crimes against humanity. These layers of responsibility highlight the importance of accountability mechanisms in addressing violations arising from extraterritorial military operations.

g. Strengthening International Oversight and Legal Clarity

i. Role of United Nations and Treaty Bodies

In the context of international law, the United Nations is essential in deciding whether or not extraterritorial military actions and the use of deadly force outside of armed conflict situations are legitimate. This position, from the viewpoint of the Committee, is mostly normative and interpretive, concentrating on the clarification, development, and codification of legal principles regulating the use of force, state responsibility, and the extraterritorial application of international law. The foundation of *jus ad bellum* is the UN Charter, which is at the center of the UN's legal structure. Article 2(4) of the Charter outlines a broad ban on the use of force, with few exceptions, namely self-defense under Article 51 and enforcement measures approved by the Security Council. In UN legal forums, the interpretation of these clauses—especially in instances involving counterterrorism operations, targeted

assassinations, or drone attacks carried out outside of recognized armed conflicts—continues to be a key legal issue. In its role as the main legal committee of the General Assembly, the Sixth Committee allows states to express legal viewpoints about how the Charter and customary international law should be interpreted. The Committee helps to clarify controversial legal topics through its discussions, agenda items, and resolutions, such as the extent of self-defense against non-state actors, the idea of "unable or unwilling" states, and the criteria for the legitimate use of force outside of armed conflict. Although the Sixth Committee does not make rulings on disagreements, its discussions reflect the development of state practice and *opinio juris*, both of which are fundamental components in the development of customary international law. Furthermore, the International Law Commission (ILC), which functions under the authority of the General Assembly, is essential in resolving legal concerns pertaining to the extraterritorial use of force. The ILC's work on state accountability, the protection of people in armed conflict, and the interpretation of peremptory norms (*jus cogens*) offers authoritative legal advice that can be used to evaluate the legality of the use of destructive force outside of conventional battlefields. When assessing adherence to international law, governments, courts, and UN organizations often depend on the ILC's draft articles and comments. The legal evaluation of extraterritorial military operations is also supported by treaty bodies formed under international human rights agreements. Organizations like the Human Rights Committee, which oversees the execution of the International Covenant on Civil and Political Rights (ICCPR), have maintained that human rights duties might extend beyond a state's borders when it has actual control over people or territory. This legal interpretation is especially crucial in cases involving cross-border military operations since it refutes the notion that international human rights law no longer applies outside a nation's national boundaries. Treaty bodies define the legal norms regulating the usage of lethal force, emphasizing strict necessity, proportionality, precaution, and accountability, via General Comments, concluding observations, and individual communications. These norms work in conjunction with international humanitarian law to ascertain whether the use of deadly force outside of armed conflict amounts to an arbitrary deprivation of life or a breach of international obligations. From a Sixth Committee perspective, such readings help to advance international law by promoting the complementary use of various legal systems. The Office of the High Commissioner for Human Rights (OHCHR) also contributes significantly to the legal framework by recording abuses, releasing legal analyses, and giving technical assistance to UN organizations. In particular, reports from the Office of the High Commissioner for Human Rights (OHCHR) frequently provide information for legal discussions in the Sixth Committee and the General Assembly on the interaction between *jus ad bellum*, international humanitarian law, and international human rights law, as well as accountability mechanisms. Lastly, the International Court of Justice (ICJ), even though it is not a political organization, has considerable legal weight in its advisory opinions and judgments, which are requested or supported by UN bodies. The Legal Committee's deliberations are informed by ICJ jurisprudence on the use of force, state responsibility, and extraterritorial obligations, which aids in the consistent interpretation of international law governing extraterritorial military actions. From the standpoint of the Legal Committee, the United Nations and treaty organizations have a significant role in defining the legal limits of military actions outside of

a country's territory. These organizations guarantee that the use of destructive force outside armed conflict is still governed by the rule of law rather than by the sole discretion of the state by monitoring adherence, interpreting fundamental legal instruments, and assisting in the creation of customary and treaty law.

ii. Clarification and codification of legal standards

With the growing use of lethal force outside of formally recognized armed conflict scenarios and in cross-border military operations, significant gaps and uncertainties in the present international legal framework have become more evident. Member States continue to disagree on how the fundamental principles of the prohibition of the use of force and the right to self-defense, as laid out in the United Nations Charter, particularly through Articles 2(4) and 51, should be applied in modern security scenarios such counter-terrorism operations, targeted strikes, and the use of cross-border force against non-state actors. The practical effects of this normative ambiguity have been made plain by recent happenings. For instance, the United States' cross-border military actions against Venezuela have sparked a heated legal discussion regarding the proportionality principle, the principle of distinction, and the prohibition against the use of force. The legitimacy of such acts under international law has been called into question, notably in the absence of a UN Security Council approval or a clear justification for self-defense.

In this context, the Committee is essential to improving international oversight by clarifying and promoting the codification of pertinent legal norms. The clarification process includes the legal meaning of notions like the doctrines of "imminence" and "unwilling or unable," as well as the definition of the conditions under which legitimate defense may be used, the scope of the necessity and proportionality requirements, and the scope of the necessity and proportionality requirements. Codification, on the other hand, seeks to turn changing state practices and *opinio juris* into clearer legal norms that will regulate state action and restrict the arbitrary or unilateral employment of force.

These procedures will improve legal clarity, which will result in a more predictable and consistent application of international law. By making it possible to better evaluate states' behavior in accordance with the standards of international law, it will also improve accountability procedures. Ultimately, it is essential to define and codify the legal standards that apply to military operations that cross borders in order to preserve national sovereignty, safeguard civil societies, and uphold the rule of law in the international community.

h. Gaps in Current Legal Frameworks

Current international legal frameworks face significant challenges in regulating extraterritorial military operations and the use of lethal force beyond armed conflict. Many existing rules were developed for traditional, state-to-state warfare and do not fully address modern practices such as targeted killings, drone operations, and emerging military technologies. As a result, there are legal gaps and ambiguities concerning applicable legal

standards, accountability, and oversight. These weaknesses make it difficult to ensure consistent enforcement of international law and highlight the need for clearer norms, improved transparency, and stronger international mechanisms to address evolving security threats.

i. Challenges Posed by Emerging Technologies

Rapid developments in emerging military technologies have created serious challenges for existing international legal frameworks. Technologies such as armed drones, autonomous weapons systems, cyber operations, and advanced surveillance tools allow states to conduct military actions across borders more efficiently and with less risk to their own personnel. However, international law has not fully adapted to regulate the use of these technologies, especially outside situations of armed conflict.

One major challenge is the lack of clear legal definitions. For instance, there is no universally accepted definition of autonomous weapons, nor clear rules on how much human control must be maintained during the use of lethal force. This creates uncertainty about who is responsible when unlawful harm occurs. On top of that, remote technologies such as drones lower the political and military cost of using force, which may lead states to rely on them more frequently without sufficient legal review.

Emerging technologies also raise concerns under international human rights law, particularly regarding the right to life, due process, and accountability. Existing legal rules were largely developed for traditional warfare and may not adequately address the speed, secrecy, and global reach of modern military technologies. Therefore, gaps remain in ensuring that new tools of warfare are used in a lawful and responsible manner.

ii. Gaps in Oversight and Enforcement Mechanisms

Another major weakness in the current legal framework is the lack of effective oversight and enforcement mechanisms. While international law sets out rules on the use of force and respect for sovereignty, there are limited ways to monitor compliance or enforce accountability when violations occur. Many extraterritorial military operations are conducted in secrecy, making it difficult to assess their legality or investigate potential abuses.

International institutions such as the United Nations and the International Court of Justice play important roles in promoting legal standards, but their powers are often limited by political considerations, including the veto power of permanent members of the Security Council. By means of, states may avoid legal consequences even when credible evidence of unlawful conduct exists.

Furthermore, there is no permanent international body specifically responsible for overseeing targeted killings or cross-border uses of lethal force outside armed conflict. Victims and affected states often face obstacles in seeking justice, including lack of access to courts, jurisdictional limits, and weak enforcement of judgments. These gaps highlight the need for stronger transparency measures, clearer reporting obligations, and improved international cooperation to ensure that international law remains effective in regulating modern military practices.

5. Critical Countries' Views on the Topic

United States of America: The policy of the United States regarding the use of lethal force in extraterritorial military operations is based on a broad interpretation of the concept of self-defence in international law and on national security priorities. The United States grounds the legal basis of such operations primarily in Article 51 of the United Nations Charter, which recognizes the inherent right of individual and collective self-defence. Accordingly, the U.S. argues that it may use force without prior authorization from the Security Council if it has been subjected to an armed attack or faces an imminent and serious threat of attack. One of the distinguishing features of the U.S. approach is its view that the right of self-defence is not limited solely to attacks carried out by states. Particularly after the attacks of 11 September 2001, the United States asserted that non-state armed actors can also trigger the right of self-defence. Within this framework, the U.S. maintains that when terrorist organizations pose a continuous and serious threat to the United States or its nationals, and when the state in whose territory these groups operate is unable or unwilling to prevent the threat, the United States may lawfully conduct extraterritorial military operations. This rationale, commonly referred to in international literature as the “unable or unwilling” doctrine, has been invoked to justify U.S. operations in countries such as Pakistan, Yemen, Somalia, and Syria.

U.S. policy further accepts that, under certain conditions, the use of lethal force may be lawful even in situations that do not amount to an armed conflict. In this context, the United States argues that lethal force can be considered lawful where the targeted individual poses an imminent and unavoidable threat, capture is not feasible, and the use of force is necessary and proportionate. This approach is particularly evident in targeted killings and operations carried out through unmanned aerial vehicles. From the perspective of international law, the United States accepts that International Humanitarian Law applies where extraterritorial military operations amount to an armed conflict. However, it takes the position that international human rights law applies only to a limited extent in such operations. In particular, the U.S. argues that obligations relating to the right to life are primarily governed by the rules of humanitarian law in the context of armed conflict.

Although the United States maintains a military presence in the Caribbean region under counter-narcotics and regional security justifications, there has been no publicly confirmed

United Nations Security Council authorization permitting the use of force against Venezuela, nor a clear armed attack that would trigger the right to self-defence under Article 51 of the UN Charter. Under international law, only the use of armed force on the territory of another state without consent qualifies as an extraterritorial military operation and constitutes a use of force under Article 2(4) of the UN Charter. Economic sanctions, political pressure, and diplomatic actions alone do not meet this threshold. The U.S.–Venezuela situation is best described as a political and economic confrontation rather than an armed conflict. Any confirmed cross-border military operation by the United States in Venezuelan territory, without Security Council authorization or a valid claim of self-defence, would likely be considered a violation of international law.

Russian Federation: The Russian Federation, while accepting the general validity of the prohibition on the use of force, is based on a broad and flexible interpretation of exceptions based on legitimate defense and invitation (consent). Russia states that it accepts the United Nations Charter as the fundamental framework of international law, but argues that in practice this framework can be expanded for political and security reasons. The Russian Federation, while accepting the general validity of the prohibition on the use of force, is based on a broad and flexible interpretation of exceptions based on legitimate defense and invitation (consent). Russia states that it accepts the United Nations Charter as the fundamental framework of international law, but argues that in practice this framework can be expanded for political and security reasons. One of the most prominent elements of Russia's policy is its tendency to legitimize cross-border military operations based on the explicit invitation or consent of the relevant state. This approach has been particularly prominent in the context of its military presence in Syria. Russia argues that it is present in Syria at the invitation of the Syrian government and that the military operations carried out are therefore not contrary to sovereignty. According to Russia, the consent of the legitimate government constitutes a strong basis for making the use of lethal force across borders legally permissible under international law.

China: China maintains that the use of force is generally exceptional under international law and views the prohibition on the use of force in Article 2(4) of the United Nations Charter as the cornerstone of the international order. In this context, China is one of the states that takes an extremely cautious approach to the use of lethal force in cross-border military operations. China's fundamental legal approach is that the use of force across borders can only be legitimate under two narrow exceptions: first, explicit authorization by the United Nations Security Council, and second, the exercise of the right to self-defense in the event of an armed attack. While China accepts the right to self-defense under Article 51 of the UN Charter, it argues that this right should be applied under narrow and strict conditions. In particular, it takes a distanced approach to the concepts of “preventive” or “preemptive” self-defense, arguing that such interpretations erode the prohibition on the use of force. Regarding the use of lethal force across borders against non-state armed actors, China does not share the broad understanding of legitimate defense adopted by some states, such as the United States. According to China, the use of military force against non-state actors,

including in the fight against terrorism, should essentially be carried out with the consent of the state concerned or with the authorization of the Security Council. China explicitly rejects the “unable or unwilling” doctrine and argues that this approach violates state sovereignty.

United Kingdom: The UK's understanding of legitimate defense is based on the condition of a “real and imminent threat.” Accordingly, the threat of attack from non-state armed actors must be concrete, urgent, and unavoidable. The United Kingdom generally considers cross-border military operations based solely on potential or long-term risks to be contrary to international law. Furthermore, the use of force must comply with the principles of necessity and proportionality as a fundamental requirement. The United Kingdom does not explicitly and unreservedly embrace the “unable or unwilling” doctrine. It maintains that even if the host state is unable to prevent a threat originating from its own territory, the use of force beyond its borders can only be legitimate under exceptional circumstances. This approach differs from the policy of the United States, which interprets the doctrine more broadly. The UK emphasizes the importance of preserving the principle of sovereignty and states that such interventions should remain an exception under international law.

A concrete example of the UK's policy in this regard is the 2015 airstrike targeting an ISIS member in Syria. The UK defended the operation on the grounds that there was an imminent and serious terrorist threat to the UK, that the Syrian state was unable to effectively prevent this threat, and that the operation was carried out within the scope of legitimate self-defense. This incident demonstrates that the UK does not completely reject the use of lethal force beyond its borders, but views it as an exceptional authority subject to strict conditions.

Pakistan: Pakistan has consistently opposed extraterritorial military operations and the use of lethal force beyond armed conflict when carried out without the consent of the territorial state. The country strongly emphasizes the importance of state sovereignty, territorial integrity, and non-intervention, as guaranteed by the United Nations Charter. Pakistan has been particularly vocal in criticizing drone strikes, arguing that they frequently cause civilian casualties, create fear among local populations, and violate the right to life and due process under international human rights law. According to Pakistan, such operations also weaken international legal norms by allowing states to act unilaterally without proper accountability.

In recent years, Pakistan has continued to raise these concerns in United Nations forums, including the General Assembly and the Human Rights Council, calling for clearer international rules on the use of force outside armed conflict. Pakistan has supported efforts to strengthen oversight, transparency, and reporting mechanisms, especially in relation to emerging military technologies such as armed drones. At the same time, Pakistan emphasizes that counter-terrorism must be conducted through international cooperation, lawful means, and respect for the authority of the host state, rather than through unilateral military actions.

Through these positions, Pakistan seeks to reinforce the rule of international law while addressing legitimate security challenges in a responsible manner.

Israel: Israel generally supports a broad interpretation of self-defence under international law when responding to ongoing and imminent security threats, particularly from non-state armed groups operating beyond its borders. A clear illustration of this approach can be seen in 2015, when Israel openly adopted and defended a policy of targeted killings against individuals it identified as posing an immediate threat to Israeli civilians. Israel argued that these operations were lawful acts of self-defence under Article 51 of the UN Charter, necessary to prevent future attacks in situations where conventional law enforcement measures were considered ineffective.

A further example occurred in 2021, during the escalation of violence between Israel and armed groups in Gaza. Israel justified its precision airstrikes and targeted operations as proportionate responses to continuous rocket attacks, emphasizing that targeting decisions were based on detailed intelligence and aimed at minimizing civilian harm. Israeli authorities have consistently argued that such operations are conducted when the opposing authority is unable or unwilling to prevent attacks originating from its territory. Israel also highlights its internal legal review mechanisms, including military legal advisors and judicial oversight, as safeguards to ensure compliance with international humanitarian law and relevant principles of international human rights law.

In contrast, Palestinian authorities and representatives strongly dispute Israel's legal justifications, arguing that targeted killings and drone operations amount to unlawful use of force, collective punishment, and violations of the right to life. They emphasize the impact of these operations on civilians and argue that international human rights law, rather than expansive self-defence doctrines, should apply outside active hostilities. From the Palestinian perspective, the lack of effective international accountability mechanisms has contributed to repeated violations without sufficient legal consequences.

These opposing views highlight significant gaps in the current international legal framework, particularly regarding the regulation of targeted killings, drone warfare, and the use of force against non-state actors. The absence of clear rules on the boundaries of self-defence, the application of human rights law in asymmetric conflicts, and the effectiveness of oversight mechanisms continues to fuel legal uncertainty and controversy in the Israel–Palestine context.

Iraq:

Iraq generally adopts a strict interpretation of state sovereignty and consistently emphasizes the importance of state consent in matters involving foreign military operations. Due to its historical experience with prolonged foreign military presence and internal instability, Iraq has repeatedly stated that extraterritorial uses of force conducted without the host state's approval undermine the principles of the UN Charter, particularly respect for territorial

integrity and political independence. While Iraq cooperates with international partners in counter-terrorism efforts, it maintains that such cooperation must be grounded in formal agreements, coordination, and compliance with international law.

A clear illustration of this position occurred in January 2020, when the United States conducted a drone strike in Baghdad that killed Iranian General Qasem Soleimani and Iraqi militia leader Abu Mahdi al-Muhandis. The Iraqi government officially condemned the operation, describing it as a serious violation of Iraq's sovereignty and an unlawful use of force under international law. In response, the Iraqi Parliament adopted a non-binding resolution calling for the withdrawal of foreign troops from Iraqi territory, reflecting domestic opposition to unauthorized military actions.

In the following years, Iraq continued to raise objections to unauthorized airstrikes and cross-border operations carried out by foreign states against non-state armed groups within its territory. During 2021 and 2022, Iraqi officials reiterated in diplomatic statements and UN-related forums that counter-terrorism measures must respect state sovereignty and be based on consent and cooperation. Through this approach, Iraq seeks to address its security concerns while reinforcing international legal norms governing the use of force beyond armed conflict.

France: France generally supports the use of extraterritorial military force when it is carried out in accordance with international law, particularly under the principles of self-defence and collective security. One notable illustration of this approach is Operation Barkhane, launched in 2014 and continued until 2022, during which France conducted military operations in the Sahel region, including Mali, Niger, and Burkina Faso, to combat terrorist groups. France justified these operations on the basis of host state consent and the need to respond to serious security threats posed by non-state armed groups.

A further example can be observed in 2015, following a series of major terrorist attacks in Paris. In response, France carried out airstrikes against ISIS targets in Syria, arguing that these actions were lawful acts of self-defence under Article 51 of the UN Charter. France emphasized that Syria was unable or unwilling to prevent ISIS from using its territory to plan attacks. In international forums, France has continued to call for clear legal frameworks, multilateral cooperation, and stronger international oversight to ensure that extraterritorial uses of force remain lawful, proportionate, and accountable. Through this approach, France presents itself as a supporter of both effective counter-terrorism and the rule of international law.

6. Questions a Resolution Should Address

- 1.** How can international law balance the right to self-defence with the principle of state sovereignty and territorial integrity?
- 2.** What is the legal distinction between the use of force and the use of lethal/destructive force beyond armed conflict?
- 3.** Under what conditions can self-defence be lawfully invoked against non-state armed groups operating in another state's territory?
- 4.** How should necessity, proportionality, and last resort be assessed in operations conducted outside active hostilities?
- 5.** How can the United Nations strengthen oversight of extraterritorial military operations?
- 6.** Should there be a specific treaty or UN resolution governing the export and extraterritorial use of armed drones?
- 7.** How can the international community establish a transparency mechanism to report and investigate drone-related civilian casualties?
- 8.** How can the International Court of Justice (ICJ) contribute to the interpretation of international law related to extraterritorial military operations?
- 9.** How does a state's use of lethal force outside its own territory without the consent of another state require a balance between the principle of "non-intervention" and the right to self-defense?
- 10.** How can the codification and clarification of international legal standards strengthen legal certainty and accountability in extraterritorial uses of lethal force?

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