UvA-DARE (Digital Academic Repository)

Thinking war in the 21st century: Introducing non-state actors in Just war theory

Noorda, H.A.

Publication date
2016

Document Version
Final published version

Link to publication

Citation for published version (APA):
Noorda, H. A. (2016). *Thinking war in the 21st century: Introducing non-state actors in Just war theory*. [Thesis, fully internal, Universiteit van Amsterdam].

General rights
It is not permitted to download or to forward/distribute the text or part of it without the consent of the author(s) and/or copyright holder(s), other than for strictly personal, individual use, unless the work is under an open content license (like Creative Commons).

Disclaimer/Complaints regulations
If you believe that digital publication of certain material infringes any of your rights or (privacy) interests, please let the Library know, stating your reasons. In case of a legitimate complaint, the Library will make the material inaccessible and/or remove it from the website. Please Ask the Library: https://uba.uva.nl/en/contact, or a letter to: Library of the University of Amsterdam, Secretariat, Singel 425, 1012 WP Amsterdam, The Netherlands. You will be contacted as soon as possible.

UvA-DARE is a service provided by the library of the University of Amsterdam (https://dare.uva.nl)

Download date:14 Dec 2024

3

Sovereign Equality of States in Wars with Non-State Actors*

This chapter is an adapted version of: Hadassa Noorda. 2013. "The Principle of Sovereign Equality with Respect to Wars with Non-State Actors." *Philosophia* 41 (2): 337-347.

3.1 Introduction

When a state seeks to defend itself through the use of force against an attack by non-state actors located in the territory of another state, the defending state must use force in the territory

* Part of this research was conducted while visiting Georgetown University and I would like to thank the Kennedy Institute of Ethics, and the Department of Government for their hospitality. I presented previous drafts of this chapter at the 2012 International Society for Military Ethics Conference at the University of San Diego, the Law Research Fellows Collaborative at Georgetown University in 2012, and the 2012 Gallatin Interdisciplinary Graduate Student Conference 'Global Justice and Ethics' at New York University. I would like to thank members of these audiences for their feedback. I am particularly grateful to Gregory Klass, Lawrence Solum, Virginia Held, David Luban and Tony Manela for their helpful comments and suggestions.

of that other state. Self-defense by states against non-state actors located in the territory of another state may be seen as disrespecting the sovereignty of that state. However, not allowing states to use force in self-defense against non-state actors may be problematic because it prevents states from effectively defending their security. This chapter addresses how to respond to aggressive actions by a non-state actor located in the territory of another state while complying with the principle of sovereign equality.

Mainly legal scholars have addressed the issue of responding to non-state aggression on the territory of other states Davis Brown and Yoram Dinstein, among others, have argued for interpreting international law in a way that states be authorized to defend against non-state violence.[77] I refute Brown's interpretation of international law wherein states may be permitted to counter-attack other states that allow non-state actors to attack from their soil. Instead, I align myself with Dinstein's interpretation that states should direct their counter-attack solely towards the non-state actor that committed the attack. Dinstein and Brown merely give an interpretation of international law. I position their approaches to war with non-state actors in broader philosophical debates on war.

This chapter unfolds as follows: Firstly, in section 3.2., I explain the principle of sovereign equality as it prohibits states from dominating one another. Secondly, in sections 3.3 and 3.4, I evaluate the two main views in the debate on self-defense against non-state actors as I perceive differences in the stated criteria regarding who commits an action of aggression and under which circumstances the aggressor may be countered with war. I have termed these differences the 'State View,' and the 'Non-State View.' Consequently, there are different implications for the

---

[77] See, Dinstein 2011, 268-277; Brown 2003-2004.

principle of sovereignty. After briefly evaluating the two main contrasting views, I choose to take a middle road in section 3.5.

I demonstrate this by allowing the use of self-defense against non-state actors under particular circumstances: the state in which the non-state actor is located should consent to the use of force on their territory, or be incapable of controlling or unwilling to control the non-state actor. I illustrate this by referring to juridical cases and international legal rules. My proposal aims to comply with the present understanding of the principle of sovereign equality while allowing states to respond to attacks of non-state actors.

3.2 Sovereign Equality

Par in parem non habet imperium—"equals have no dominion over equals"—declares the foundation of sovereignty. This being the case, self-defense is the only remaining just cause for war. All other causes for war, including punishment, disrespect the sovereignty principle; a vertical relationship between states undermines their equality. Furthermore, states cannot pass judgment on other states by waging war because parties in wars should not make themselves the plaintiff *and* the judge.[78] Thus, taking the sovereignty principle as a point of departure, self-defense is the only legitimate reason for states to go to war. Just war theory as described here coincides with this restriction. Additionaly, it is codified in Article 51 of the Charter of the United Nations.

However, war has not always been restricted to self-defense. In this section, I briefly sketch the history of the principle of just

---

[78] David Luban details this objection against punishment as a cause for war in approach in Luban 2012, 25.

cause for war.[79] I first explain punishment as a cause for war. Then, I describe self-defense as a cause for war. In the tradition of just war theory Cicero (circa 51 BCE) maintained that a just war might be waged for revenge.[80] In the Christian tradition of just war, punishment as a just cause for war can be traced back to Augustine (354 – 430 CE). Augustine's idea of war as punishment was at the core of just war theory and confirmed that equality was not the starting point for international relations. Augustine defined just wars as follows:

> […] as those that avenge wrongs, when people or political communities need to be punished either because they have failed to rectify wrongs committed by their subjects, or because they have failed to restore property unjustly seized.[81]

Following this line of reasoning, in 1625 CE Grotius incorporated the idea of war as punishment in his famous doctrine on a state's right to punish as a derivative of the universal right of individuals to punish violations of natural law.[82] He specifies three types of just cause: self-defense, action to obtain what is rightfully owned, and punishment.[83]

In the seventeenth and eighteenth centuries, the nation-state emerged.[84] With the rise of the nation-state, the punishment theory of just cause declined and self-defense remained as a cause for war. Punishment of other states was deemed inconsistent with sovereign equality. As Immanuel Kant maintained in 1790:

---

[79] For more detailed accounts on the history of war this principle, see, e.g., Luban 2012; La Croix 1988; Reichberg, Syse and Begby 2006; Bellamy 2006; Neff 2005.
[80] Cicero 1998, 69.
[81] Reichberg, Syse and Begby 2006, 82.
[82] Grotius 2001, Chapter 20, par. 40.
[83] Neff 2005, 97.
[84] Neff 2005, 48.

> No war of independent states against each other can rightly be a war of punishment (bellum punitivum). For punishment is only in place under the relation of a superior (imperantis) to a subject (subditum); and this is not the relation of the states to one another.[85]

Punishment is based on a vertical relationship but self-defense is not. After the nation-state was established self-defense was regarded as a just cause for war.

States may use force in self-defense against aggression. Currently, however, not every state violation of territorial integrity or political sovereignty should be called aggression; sovereignty is no longer seen as absolute. Not all infringements of sovereignty are seen legitimate reasons for using aggression and not all interventions are in violation of the sovereignty principle. Deviating from the traditional ideal of absolute rule, the sovereignty principle in international law is tempered by the internationalization of human rights and the establishment of the Convention on the Prevention and Punishment of the Crime of Genocide following World War II. This present understanding of sovereignty emerged from the Nuremberg principles that penalized crimes against humanity regardless of "the fact that internal law does not impose a penalty for an action which constitutes a crime under international law [...]." [86] Thus, sovereignty no longer provides protection against all kinds of external judgments.[87]

---

[85] Kant 1997, 57.

[86] Principles of International Law Recognized in the Charter of the Nüremberg Tribunal and in the Judgment of the Tribunal, 1950, Yearbook of the International Law Commission, volume II.

[87] Since 2005, the United Nations has been engaged with the development of the Responsibility to Protect—an emerging norm that calls for intervention by the international community in states that are failing to protect (or guilty of harming) its citizens from mass atrocity

I argue that the sovereignty of a state should bear the accompanying responsibility to prevent its territory from being used for initiating armed conflicts outside its borders. This view coincides with present understandings of sovereignty in other contexts, including present understanding of situations of human rights violations of citizens of other states. In this way, states are responsible for not provoking attacks on other states by allowing other actors to use force. Avoiding engagement in attacks implies that the ruler of a state is supposed to know what takes place on her territory.[88] This view on sovereignty roots back to Samuel von Pufendorf. Writing on war in 1682, a time of an emerging system of states, Von Pufendorf, on the one hand, respected sovereignty and, on the other, learned from the just war tradition of the past. In his vision, states were permitted to counter the violent acts of individuals located in another sovereign territory with war.[89] However, he did not argue that such a counter-attack punishes the state where the non-state actor is located. Responding to the violent acts of civilians located on another territory derives from the claim that states are responsible for what is done on their territory. Thus, such a counter-attack does not necessarily have to coincide with punishment as a legitimate reason for going to war. The state's lack of control over a non-state actor located in its territory could require the need for another state to defend itself against an attack by that non-state actor.

---

crimes. See, Resolution Adopted by the General Assembly 308. U.N. GAOR 63rd Sess. Supp. No. 44, 107. U.N. Doc. A/308 (2009).

[88] This argument is similar to arguments put forward in the debate on responsibility to protect. However, in responsibility to protect cases, states are responsible to protect the population of another state notwithstanding the sovereignty of that state. Here, states protect their own population by responding to non-state actors using force from the territory of other states.

[89] Von Pufendorf 1927, book II, Chapter 16, Section 9. The non-state actors at that time were pirates and privateers.

Sovereignty can be tempered by states' responsibilities toward other states with respect to the individuals in their territory. In the next section, I introduce two contrasting approaches on state's responses to aggression by non-state actors located on the territory of another state. Subsequently, I propose a middle-way through this debate.

3.3 States as Parties in War

According to just war theory as described in this thesis, states are the main actors in war, and most non-state actors are excluded from being parties in war. [90] This is reflected by current international legal rules. I will term this view on war the 'State View'. Some legal scholars support the idea that states are the main actors in war while tolerating the actions of irregular forces if their measures can be attributed to the state. I further distinguish between two versions of the 'State View': (1) those who claim regular forces of states should be viewed as the main actors who may resort to war, and (2) those who allow acts of irregular forces in a war if their acts are attributed to a state. Additionally, I describe the opposing view that applies the right to use force in self-defense against an attack by a non-state actor without consideration of the state role where the non-state actors are located.

According to the version of the 'State View' that holds that the right to use force in self-defense concerns an attack by the regular forces of another state, the regular forces of states can

---

[90] See, e.g. Walzer 2006a, 107. This view is based on the conception of a world order existing out of states: an international order. International law would according to this conception regulate the relationships between states.

resort to war. With respect to situations of armed conflict, this view ignores the non-state actor as participant in war. This is not the claim I defend in this thesis. In fact, I argue that members of non-state actors should, under certain conditions to be set out here, be regarded as combatants.

Michael Walzer's theory provides an example of a current just war theory that positions the state as his point of departure.[91] Walzer's perspective is based on "the present structure of the moral world."[92] According to this perspective, the only way to identify the requirements of a just war is to understanding each particular community. He accounts for the ways in which we argue about war by expounding on the terms we commonly use. Subsequently, Walzer argues that war should be viewed as a relationship between political entities: "The war itself isn't a relation between persons, but between political entities and their instruments."[93] Based on this analysis, he designates the state as the main party in war that places combatants in conflict.

In so doing, Walzer revives an older theory that arose during a politically chaotic time in which states' legitimate authority was far from natural, namely, the Romans and the early Christians. Roman law and custom and Christian theology express that states can justifiably resort to war, and thus, the right to use force in self-defense applies to an attack by the regular forces of another state. War was seen as a last resort of political activity, because—as Cicero pointed out—war involves existential threats to the community.[94] In Christian just war doctrine, going back as far as Augustine, restricting the legitimate authority to wage war to states was a means of separating private

[91] Walzer 2006a; Walzer 2006b, 3-12.
[92] Walzer 2006a, p. xxi.
[93] Walzer 2006a, 36.
[94] La Croix 1988, 22.

conflicts from war waged by the sovereign.[95] In 1625, basing his ideas on natural law, Grotius systematized the theory by supporting a code of ethics for the standards that states required of each other in a situation in which each state considered itself sovereign, equal, and independent.[96] Since he recognized nation-states as the legitimate agents involved in international action with regard to *ad bellum* justice, Grotius believed that the sovereign was also the possessor of authority to wage war.[97] Particularly remarkable was the distinction between states and non-state actors, notwithstanding a political order full of conflict and a not yet established nation-state.[98]

Most scholars adhering to the 'State View', do give some room for non-state combatants by attributing their actions to a state. This perspective is what I refer to as the 'Attribution View.' Defenders of this view on wars with non-state actors, adhere to the concept of states as the main parties in war. They state that the right to use force in self-defense against an attack by non-state actors applies only when the attack is attributable to the state based on the commission or omission of the state on whose territory defensive force is being used. This view also ignores the non-state actor as an independently operating actor at the international level and approaches war as an armed conflict between states. However, according to the 'Attribution View', the attack by the non-state actor should be attributed to the state where the non-state actor is located; otherwise, the right to use force in self-defense does not apply, and the conflict does not amount to an armed conflict. Arguing in favor of the attribution version of the 'State View' one may differ in the way in which one

---

[95] Bellamy 2006, 48; La Croix 1988, 62, 69.
[96] Grotius 2002, book I, Chapter 3.
[97] Grotius did grant a right to resist against the sovereign, but the sovereign was the main possessor of the authority to wage war.
[98] Bellamy 2006, 48.

links the responsibility of the state where the non-state actor is located with the conduct of the non-state actor. One may require that the non-state actor be sent by that state and/or acted on behalf of the state or attribute the non-state actor's actions to the state where the non-state actor is located if that state knowingly allowed terrorist activities or breached its obligations not to promote such activities.[99] In both cases, the state not the non-state actor is a party in the armed conflict. Scholars who defend this view approach such a state as if it itself committed the aggressive act. The attribution versions of the 'State View' do not include non-state actors as parties in war similar to states.

Although the 'Attribution View' includes the *actions* of the non-state actors by requiring that these actions be attributed to the state where the non-state actor is located, this version does not include non-state actors as parties in war. This reads similarly to the regular forces version of the 'State View'. While from this perspective non-state actors are excluded as parties in war, the state wherein the non-state actor is located is seen as a party in the armed conflict; often (the military of) that state becomes the target for counter-measures—not the non-state actor.

The 'State View' may imply that states cannot defend themselves against every actor. The connection between the state where the non-state actor is located and the non-state actor may disqualify attacks by non-state actors as armed attacks and may, thus, not trigger the application of the laws of war as attacks by states would do. However, one might wonder why an attacked state should not be allowed to respond when the attacker is a non-state actor located in the territory of another state. In practice, applying this perspective poses a problem because denying states the right to respond to an attack carried out by a non-state actor

---

[99] Brown 2003-2004; Dinstein 2011 (Dinstein and Brown refer to legal cases that reflect this approach).

disables states from effectively defending themselves against aggression. It also enables other states to "host" non-state actors who in turn launch attacks against other states.[100] Nonetheless, weakening the required link between the non-state actor and the state takes away states' control regarding engaging in wars and may undermine their sovereignty. In the next section, I discuss non-state actors as direct parties in war.

3.4 Non-State Actors as Parties in War

In contrast to the 'State View,' the 'Non-State View' approaches the issue of defending against non-state force from the opposite direction. In the 'Non-State View,' the right to use force in self-defense against an attack by a non-state actor pertains regardless of the state's role where the non-state actors is located. Therefore, this view takes the non-state actor into direct consideration and gives the entity status in war at the legal international level, regardless of the location of that non-state actor.

Even though the sovereign state has been established, armed conflicts are still waged by states as well as by non-state actors. Although many conceptions of war reduce war to an armed conflict between states, new versions of the theory not restricted to the actions of states have been recently introduced. Revisionist views on war, as detailed in the introductory chapter to this thesis and Chapter 2, give room for including non-state actors as potential actors in war.

Revisionist approaches defend the view that we should judge war actions, such as killing in war, by the moral rules that govern actions between individuals. Such approaches do not

---

[100] Cassese 2001, 997; Green 2009, 47-48 (Cassese and Green address the problem of allowing states to host non-state actors).

necessarily restrict war to the actions of states; individuals may be regarded as direct participants in conflicts and can be held responsible for *ad bellum* matters.[101] I have argued against this approach and counter to the revisionists, I assert that wars may be waged with groups of individuals (*i.e.* non-state actors). As I detail in this thesis, some non-state combatants should be regarded as combatants. This may enable combatants as individuals who fight in the name of the state to legitimately use military force under principles of war against such non-state combatants. In this way, the salient question of how to regulate conflicts between states and non-state actors at the international level can be addressed.

Problems may arise, however, when non-state actors are given the status of a party in war. Most states have an effective and independent system of government pursuant to a community within a defined territory and most non-state actors do not.[102] Consequently, non-state actors nearly always operate from within the territories of states. Therefore, a counter-attack on a non-state actor might disrespect the sovereignty of the state where the non-state actor is located. The 'State View' may ignore non-state actors as parties in wars, while the 'Non-State View' may disrespect the sovereignty of states. To circumvent the problems of the 'Non-State View' and the 'State View,' I argue for including the non-state actor to the category of parties in war while recognizing the present understanding of sovereignty. I detail this in the next section of this chapter.

---

[101] See, for example, Fabre 2012 (Fabre takes individuals as the primary focus of concern)

[102] This is the quality of sovereignty. Ian Brownlie describes sovereignty as the central pillar of international law. See, Brownlie 2008, 287.

3.5 Sovereign Equality and Conflicts with Non-State Actors

To try to circumvent the problems of the 'State View' and the 'Non-State View,' I include non-state actors while being cognizant of the world being ordered into states. In this section, I argue that by taking into consideration the non-state actor and the state where the non-state actors are located, self-defense by states against non-state actors located in another territory can comply with the sovereignty principle.

The sovereignty of the state where the non-state actors are located could be disrespected by the use of force as self-defense against the non-state actor. The principle of sovereign equality dictates that states have the primary right to prevent individuals on their territory from committing violent actions (including attacks on other states). Therefore, using armed force against a non-state actor on the territory of another state may not only be disrespectful to state sovereignty but may also constitute an action of aggression against that state. Using armed force could even constitute an armed attack if the response to the non-state actor does not meet certain requirements. In order to avoid disregarding state sovereignty where the non-state actor is located, I propose the attacked state request the state where the non-state actor is located to take action. If the state refuses to take action, the use of force on that territory can be considered permissible in two situations: (1) the state is unwilling to control the non-state actor, or (2) the state is incapable of controlling the non-state actor.[103] I will now explain these situations in more detail.

---

[103] My proposal is similar to Davis Brown's proposal, see, Brown 2003–2004, 30 (Brown explores the application of the existing framework of

If the state(s) where the non-state actor is located consents to outsiders using force on its territory, the sovereignty principle is not disrespected, because, in this case, the attacked state is permitted by the territorial state to respond to non-state actors located on the territory of that state. For example, the CIA killing of al-Harethi, a suspected Al Qaeda member in Yemen, was reportedly consented to by the Yemeni government.[104] However, other questions must be answered before drawing the conclusion this was a legitimate attack, as it is not clear whether or not al-Harethi was a member of a non-state actor that committed an act to which the United States might have responded legitimately in self-defense. Thus, it is not clear whether the attacked state should have done what the territorial state permitted it to do. Additional requirements for deciding on this matter will be set out in the following chapters.

If the territorial state is unwilling to prevent the use of its territory by a non-state actor and the territorial state ignores requests to take action, the injured state may respond to the non-state actor. The responding state does what the territorial state should have done—responding to the use of force by a non-state actor. In current international law, this principle can be derived from an analogous interpretation of the definition of aggression, which characterizes aggression as:

> the action of a state in allowing its territory, which it has placed at the disposal of another state, to be used by that

---

international law to the September 11 attacks, arguing that international law should allow the injured state to respond as if the state were the non-state actor was located had committed the attack.) However, I require states to direct their counter-attack solely towards the non-state actor.

[104] "CIA 'Killed al-Qaeda Suspects' in Yemen. November 5, 2002." *BBC News World Edition*.

> other State for perpetrating an act of aggression against a third State.[105]

Likewise, when a state hosts a non-state actor that subsequently commits an attack on another state, the attacked state should have the right to respond against the non-state actor.[106] The territorial state incurs a responsibility to the attacked state in order to respond to violent actions committed by non-state actors located on its territory, particularly if the territorial state knowingly allowed its territory to be used to attack states.[107]

Moreover, if the territorial state is incapable of preventing its territory from being used for such a purpose, the attacked state should be allowed to resort to force against the non-state actor. Responding to a non-state actor located on the territory of another state in this situation results from the government's awareness that the non-state actor is within its territory and acting aggressively. In this scenario, the use of force against a non-state actor should not be categorized as aggression against the territorial state. The territorial state was incapable of preventing its territory from being used by a non-state actor that acted aggressively against another state. A state's incapability to stop non-state actors' violent activities should not narrow the state's responsibility to cease those activities if that state is aware that attacks were committed by non-state actors located on its territory.[108]

States are responsible for not engaging in aggression against other states and should be aware of what is taking place in their

---

[105] See, on the definition of aggression under current international law, Brown 2003–2004, 30.
[106] Brown 2003–2004, 31.
[107] Yoram Dinstein endorses this view by referring to the International Court of Justice *Corfu Channel* case of April 1949, see Dinstein 2011, 268-277.
[108] Brown 2003-2004, 13.

territory. Based on the belief that states are responsible for preventing its territory from being used by individuals who engage in attacks on other states, the attacked state may—as a fallback—fulfill that task on the territory of the state where that non-state actor is located. This could imply that the killing of Osama Bin Laden by the United States on the territory of Pakistan was in line with the principle of sovereignty if Pakistan consented to the use of force on its territory or was incapable of or unwilling to control members of Al Qaeda operating from Pakistan. However, reflecting on the al-Harethi case, other questions must be addressed before drawing this conclusion. It is not clear whether Osama Bin Laden and Al Qaeda meet the requirements for being treated under the rules of war as stipulated in this thesis.[109] Furthermore, the other specific requirements of self-defense have to be met as well.

Assuming that a state is allowed to respond in self-defense against a non-state actor located in another territory, this self-defense does not necessarily disrespect the sovereignty of the state where the non-state actor is located. Thus, the responding state may dispatch military units into the territory where the non-state actor is located, if that state permitted the use of its territory as a staging area for non-state actors' attacks against other states. The territorial state is not allowed subsequently to appeal to the principle of sovereignty and to protect its territory against such self-defense measures because it permitted aggressive attacks to occur from its territory.

To conclude, the notion of self-defense in this context rests upon two relationships: (1) the relationship between the non-state actor that committed the armed attack and the attacked state,

---

[109] The relationship between the responding state and the non-state actor will be discussed in more detail in Chapter 4. Here the focus is on the sovereignty of the territorial state.

and (2) the relationship between the victim state of an armed attack and the state that fails to take measures against the non-state actor committing the attack, or consents to the use of force by the attacked state. The first relationship has important consequences for the discrimination principle, as discussed in Chapter 4, by requiring that only the armed forces of a non-state actor should be a target for the counter-attack. Here the focus rests on the latter relationship that regards the sovereignty of states by requiring an omission of the territorial state or the consent of that state. The right to use force in self-defense against an attack by non-state actors applies when there is a relationship between the territorial state and the attacked state constituted by the failure of the territorial state to control the non-state actor, or by the consent of that state to using force on its territory.[110] This allows principles of war to cover acts of entities who do not have their own territory and includes these territory-less entities while still taking into consideration the fact that the world is ordered into states. The benefit of this approach results from not requiring an attribution of the action of the non-state actor to the state where the non-state actor is located while not approaching the non-state actor regardless of the territorial state. Further, this implies that targeting the territorial state should not be permitted; self-defense can be directed solely toward the non-state actor.

---

[110] The requirement of "failing to control" could be interpreted in failing to react to an armed attack of a non-state actor after the fact, and in failing to prevent an armed attack launched by a non-state actor. The latter is less preferable because it alters the legal criteria of immediacy. I discuss prevention as being disrespectful of individual autonomy in Chapter 6.

3.6 Conclusion

I argued that complying with present understandings of the sovereignty principle while using force in self-defense against non-state actors can be achieved by taking into consideration, that the non-state actor is an actor and a target in war, and that the state wherein lies the non-state actor is the sovereign that has the right to exercise control over its territory. This balanced perspective neither gives states the opportunity to host non-state actors that commit aggressive acts against other states nor risks disrespecting sovereignty by allowing self-defense responses against non-state actors regardless of the role of the state where the non-state actor is located. As this chapter argued, these problems are solved by taking the relationship between the two states and the relationship between the attacked state and the non-state actor into account. States are responsible for not engaging in aggressive attacks on other states and, therefore, ought to prevent their territory from being used for such purposes. Thus, if a non-state actor's violent acts located on the territory of state A constitute an act of aggression toward state B, state B may under certain conditions respond in self-defense against the non-state actor located on the territory of state A. This may be done between state A and state B if state A consented to the use of force on its territory or is unable to control or unwilling of controlling the non-state actor. My proposal entails that states are able to identify the non-state actors that commit the attack; otherwise, requiring states to solely attack that non-state actor will not be feasible. In the next chapter, I will propose a way for identifying non-state actors.