



LIEBER NOTES

Periodic Newsletter of the Lieber Society on the Law of Armed Conflict
Interest Group of the American Society of International Law

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Letter from your Chair

By **Andrea Joy Harrison**

First of all, I hope all of our members and their families are safe and well during these uncertain times. We had prepared a newsletter to be published in March, but ultimately many of the announcements and content were no longer relevant and many of the events were postponed indefinitely, so we decided to defer Lieber communications as well.

While we still have not been able to reschedule all the events that were planned for 2020, we at least now have some clarity around the ASIL Annual Meeting, which will now take place virtually on June 25th-26th. We will hold a virtual interest group business meeting on June 26 at 2:15pm EST, where we can, amongst other things, introduce the membership to our newly elected Executive Committee members. More information about how to log in will be forthcoming closer to the Annual Meeting date.

I also wanted to let everyone know that I will be taking a brief hiatus starting in August, because I will be on maternity leave. The Executive Committee will be assigned various tasks to cover in my absence, to ensure the continued functioning of this Society. This will be particularly important in light of the fact that we are guaranteed a panel at the 2021 ASIL Annual Meetings.

As we all adjust to the new normal and look to the second half of the year, we will try to find creative ways to engage and interact with our members, and we appreciate your patience and support.

Respectfully,

Andrea

Lieber Notes is the periodic newsletter of the Lieber Society. Any views expressed in this newsletter are those of the authors in their private capacities and do not purport to represent the official view of the Society or any government or organisation.

Lieber Society Executive Committee

Andrea Joy Harrison (Chair)
Michael W. Meier (Vice Chair)
Brittany Lamon-Paredes (Secretary)
Christopher Bailey
Tracey Begley
Andrew Boyle
Aaron Fellmeth
Shiri Krebs
Nicholas Mull
Jessica Peake
James A. Schoettler
Rachel VanLandingham



Newsletter Editor

Aaron Fellmeth (aaron.fellmeth@asu.edu)

Election of New Officers

Please join me in congratulating our new Executive Committee officers!

Michael Meier, Vice Chair. Mike is the senior civilian adviser to the Army Judge Advocate General on matters related to the Law of War.

Brittany Lamon-Paredes, Secretary. Brittany is an officer in the U.S. Navy and currently works at the Office of Naval Intelligence in Washington, DC.

Andrew Boyle, Executive Committee. Andrew is counsel in the Liberty & National Security Program of the Brennan Center for Justice at NYU School of Law.

Shiri Krebs, Executive Committee. Shiri is a Senior Lecturer and HDR Director at the Deakin Law School in Melbourne, Australia.

Jessica Peake, Executive Committee. Jessica is the Director of the International and Comparative Law Program (ICLP) and the Assistant Director of the Promise Institute for Human Rights at UCLA School of Law.

Upcoming Events

May 19, 2020: The International Bar Association's War Crimes Committee is hosting a free webinar on May 19 at 11am EDT, entitled **Long Before Nuremberg: Islamic Law of Armed Conflict**. Register today at <https://www.eventbrite.com/e/long-before-nuremberg-islamic-law-of-armed-conflict-tickets-104529578784>.

June 16, 2020: The ICRC will host a webinar to celebrate the release of the updated **Commentary on the Third Geneva Convention** on June 16 at 8am-9:30am EDT. An expert panel will discuss the Commentary's main findings. Registration opens on June 2 at <https://www.icrc.org/en/resource-centre>.

June 17, 2020: ASIL's Nonproliferation, Arms Control, and Disarmament Law Interest Group will be co-hosting with the Lieber Society a webinar on **The Impact of Emerging Technologies on the Law of Armed Conflict**, on June 17 at 12pm-1pm EDT. Our own Eric Jensen will be leading the discussion. For more information, go to www.asil.org/events.

June 25-26, 2020: ASIL Annual Meeting Online. The Lieber Society Business Meeting will be conducted online on June 26 at 2:15pm EDT. Login details will follow closer to the event.

Member News

Lieber Prize Winners

Book prize winner:

Aniel Caro de Beer, *Peremptory Norms of General International Law (Jus Cogens) and the Prohibition of Terrorism* (Brill 2019)

Article prize winner:

Ryan Liss, *Crimes Against the Sovereign Order: Rethinking International Criminal Justice*, 113 AM. J. INT'L L. 727 (2019)

Baxter prize winner:

Captain Cort S. Thompson, *Avoiding Pyrrhic Victories in Orbit: A Need for Kinetic Anti-Satellite Arms Control in the 21st Century*

Honorable mention:

Commander Wilson VornDick & Major Jahara 'Franky' Matisek, *Bitcoin's Blockchain Technology for Hybrid Warfare: Laws to the Rescue?*, 18 J. INFO. WARFARE no. 1 (2019)

Publications from Members

Diane Marie Amann, who is the Emily & Ernest Woodruff Chair in International Law at the University of Georgia School of Law, published *The Policy on Children of the ICC Office of the Prosecutor: Towards greater accountability for crimes against and affecting children* in the INTERNATIONAL REVIEW OF THE RED CROSS (2020), available at <https://www.cambridge.org/core/journals/international-review-of-the-red-cross/article/policy-on-children-of-the-icc-office-of-the-prosecutor-toward-greater-accountability-for-crimes-against-and-affecting-children/D9BB8F033B22603A168D3943EFD7B5BF>. Her lecture entitled "Child Rights, Conflict, and International Criminal Justice" was published in the United Nations Audiovisual Library of International Law in November 2019 to commemorate the 30th anniversary of the Convention on the Rights of the Child. Available at https://legal.un.org/avl/ls/Amann_HR.html.

Tobias Vestner published two articles: *Targeting Private Military and Security Companies*, MILITARY L. & THE L. OF WAR REV., March 2020, and *Addressing the Use of Human Shields*, Strategic Security Analysis, Geneva Centre for Security Policy, December 2019.

Peter Margulies has recently written an article entitled *Autonomous Weapons in the Cyber Domain: Balancing Proportionality & the Need for Speed*, available at <https://ssrn.com/abstract=3582580>.

Cross-border Counter-Attacks and Armed Opposition Groups

Professor Gary Solis¹

In the first twenty years of the 21st century, armed opposition groups (AOGs) such as al Qaeda, Taliban, ISIS/DESH, Al-Shabaab, Boko-Haram and more, have often maintained “safe harbor” bases in state A while neighboring state B was engaged in a non-international armed conflict (NIAC) against them, or other AOGs. Often, elements of the AOG sheltering in state A have crossed the A-B national border to engage opposing national forces inside state B. For example, Taliban fighters sheltering in Pakistan’s Tribal Areas would cross the Pakistan-Afghan border to attack opposing U.S. and Afghan forces in Afghanistan. Just as often, the attacking AOG fighters would then retreat back into its sheltering state, Pakistan. U.S. forces would pursue and engage the withdrawing Taliban inside Pakistan without seeking Pakistan’s permission. This describes an emergent variety of NIAC involving non-state AOGs, an attacked state’s right of self-defense, and state sovereignty.²

In March, 1916, a U.S. “provisional Division” under Brigadier General John J. Pershing, pursued Pancho Villa into Mexico after his attack on Columbus, New Mexico. The U.S. called the (ultimately futile) year-long cross-border foray a “punitive expedition.”³ Today, upon considering an armed conflict the first question is, what conflict status model do we look to? International armed conflict, non-international armed conflict, or something else?

Pershing’s expedition was not an international armed conflict (IAC), as the U.S. had obtained Mexi-

co’s permission to enter Mexico with his 10,000 American combatants. In terms of today’s Geneva Conventions, Pershing’s expedition was a common Article 3 NIAC involving an enemy AOG, Villa’s revolutionaries. Was that conflict status effected as the Mexican AOG crossed and re-crossed the U.S.-Mexico border? In Afghanistan, may U.S. combatants pursue a non-state AOG across a foreign national border into its refuge in a neighboring state? If so, on what LOAC basis? If so, how far into state A may the pursuit continue? In LOAC, do U.S. forces require the permission of state A to pursue and counterattack AOG forces within A’s sovereign territory? If not, why not? What LOAC answers these multiple complex questions?

Today such AOG events may be referred to as “cross-border non-international armed conflicts.”⁴ In 2011, a perceptive ICRC senior legal advisor wrote that, through state practice, new sub-categories of non-international armed conflicts had arisen. One of the new sub-categories she described was of a cross-border nature.⁵ The ICRC, in its 2016 Commentary on Geneva Convention I, adopts her position, describing “armed confrontations, meeting the requisite intensity threshold, between a State and a non-State armed group which operates from the territory of a second, neighboring State.”⁶ The Commentary goes on to say,



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² Tom Ruys, “Armed Attack” and Article 51 of the UN Charter (Cambridge: Cambridge University Press, 2010), at 442-53 offering examples of cross-border attacks and responses from European and Pacific States.

³ Brig. Gen. John J. Pershing, “Report of the Punitive Expedition to June 30, 1916,” (Oct. 7, 1916), cited in Frank E. Vandiver, *Black Jack: The Life and Times of John J. Pershing*, Vol. II (College Station, TX: Texas A. & M. University Press), 605, fn. 34.

⁴ Jelena Pejic, “The Protective Scope of Common Article 3: More than Meets the Eye,” 93-881 *Int’l Rev. of the Red Cross*, (March 2011), 189, 204-5.

⁵ *Id.* at 195.

⁶ International Committee of the Red Cross, *Commentary on the First Geneva Convention* (Cambridge: Cambridge University Press,

with characteristic ICRC caution, “if the non-State armed group does not act on behalf of [a] second State, it is conceivable that the confrontation...should be regarded as a non-international armed conflict.⁷ Further, “the object and purpose of common Article 3 suggests that it applies in non-international armed conflicts that cross borders.”⁸

Imagine that, in the course of a NIAC, a British patrol is operating in the state of Blue. The British are allies of Blue in its armed conflict with the Rojos, a non-state AOG attempting to displace the government of Blue. The patrol’s mission is to seek out and engage Rojo fighters. The British unit is near Blue’s national border. Across that border, in the neighboring state of Gray, the Rojos are allowed shelter by Gray’s weak government. Gray does not arm or otherwise sponsor the Rojos, but allows them freedom of movement without interference. The British patrol is ambushed by a large force of Rojos, who kill and wound many, then break contact and retreat across the Blue-Gray border, into Gray. They head for their well-defended sanctuary encampment a few miles over the border. The British higher command activates a standing counter-attack plan and embarks two companies, 600 combatants, on helicopters bound for the border, where they land. Without seeking permission from Gray, the 600 Brits proceed across the border, into the state of Gray in pursuit of the Rojos fighters. They make contact at the Rojo sanctuary and, with heavy artillery support, hard fighting ensues.

Before 9/11, such scenarios were rare. After 9/11, cross-border counter-attacks were frequent. Although not all commentators agree, post-9/11 state practice in conflicts in Afghanistan, Pakistan, Yemen, and Somalia, among other states, have moved cross-border counter-

attacks based upon self-defense toward international acceptance. What international law, what LOAC, allows the pursuit of armed non-state enemy fighters, even if they have attacked lawful combatants? After all, they are retreating into the adjacent state.

The LOAC issues inherent in cross-border counter-attacks, are not detailed in the ICRC Commentaries to the Geneva Conventions. Nor do the U.S. DoD Law of War Manual, or FM 6-27, Commander’s Handbook on the Law of Land Warfare, address those issues.⁹

Article 51 of the U.N. Charter, however, confirms an inherent right to self-defense, and does not limit that exercise to attacks by other states. Nor does it mandate that counter-attacks in self-defense must be directed to states only. On the other hand, the International Court of Justice (ICJ) has held that any counter-attack is limited to responses to attacks by states, not attacks by individual armed groups.¹⁰ “[T]he defining moment that should have dispelled all lingering doubts concerning the application of Article 51 to non-state actors was the concerted reaction of the international community in 2001 to the shocking events of 9/11.”¹¹ Following those attacks the U.N. Security Council adopted Resolutions 1368 and 1373, both referring to the inherent right of self-defense, with the latter referring specifically to the inherent right of self-defense in the context of responding to international terrorism and the 9/11 attacks. The two Resolutions have often been reaffirmed by the Security Council when dealing with counterterrorism issues. “Quite simply,” Professor Mike Schmitt writes, “it was universally accepted that a military response in self-defense would be appropriate and lawful.”¹²

Today, there also is a widely held consensus that non-state AOGs, as well as states, may be the target of counter-attacks. Moreover, the sheltering state “has no

2016), para. 477.

⁷ Id.

⁸ Id. para. 470.

⁹ The DoD Manual does, however, require that “States must obtain the consent of a territorial State before conducting military operations against a non-State armed group in that State’s territory,” a requirement the U.S. has disregarded more than once. DoD Law of War Manual (Washington D.C., Office of the General Counsel, 2015), para. 17.8.2.

¹⁰ Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, 2004 I.C.J. Rep. 136, para. 139 (July 9).

¹¹ Dinstein, *War, Aggression and Self-defense*, 5th ed. (Cambridge: Cambridge University Press, 2011), 227.

¹² Michael N. Schmitt, “Responding to Transnational Terrorism under the Jus ad Bellum: A Normative Framework,” in Michael Schmitt and Jelena Pejic, eds., *International Law and Armed Conflict: Exploring the Faultlines* (Leiden: Martinus Nijhoff, 2001), 157, 165.

right to interfere with proportionate measures of self-defense directed against the [counter-attacking force], as there is no self-defense against self-defense.”¹³

Some academics contend that Blue’s pursuit of a non-state AOG into neighboring Gray transforms the conflict status into an IAC, one state employing armed force in another non-consenting, state. But “classification rests primarily on the nature of the parties, and thus a conflict between a State and a non-State actor is a non-international armed conflict, even if it occurs extraterritorially...[C]onsent – or not – of the territorial State [Gray] is...not relevant to classification.”¹⁴ The conflict status remains a NIAC.¹⁵

With U.N. Resolutions 1368 and 1373 in mind, on 7 October, 2001, to prevent being the victim of further attacks, the U.S. counter-attacked retreating enemy AOG fighters into Afghanistan, which was providing al Qaeda and Taliban safe harbor and support. As the ICJ’s 1949 Corfu Channel judgment holds, it is the obligation of every state “not to allow knowingly its territory to be used for acts contrary to the rights of other States.”¹⁶

There are numerous other post-9/11 examples of cross-border attacks in self-defense. In 2006, Israeli forces crossed into Lebanon to attack Hezbollah after it had attacked an Israeli military patrol, killing eight. Although Israel is criticized for its violations of distinction and proportionality, there was little argument directed to Israel’s crossing Lebanon’s border to counter-attack Hezbollah.

In a 2008 cross-border raid, Columbian armed forces raided a FARC encampment inside Ecuador, without U.N. or O.A.S. condemnation. In 2011, Kenyan armed forces crossed Somalia’s border in response to the latter’s abduction of foreign nationals believed to have been carried out by al-Shabaab. No Security Council

objection was raised. In 2014-19, a U.S.-led military coalition of eighteen states citing self-defense and collective self-defense, fought ISIS forces in Syria and Iraq. In 2015, Egyptian airstrikes said to be in self-defense were directed against Libyan armed groups allied with ISIS who had beheaded twenty-one Egyptians.

By now, it is reasonably clear that cross-border counter-attacks in self-defense against armed non-state actors, if not customary law, have found both international and Security Council acceptance and a significant state practice.

Cross-border counter-attacks remain subject to the requirements of counter-attacks generally: The attack being countered must have had a greater than de minimis effect – “a use of force producing...serious consequences, epitomized by territorial intrusions, human casualties or considerable destruction of property.”¹⁷ Counter-attacks in self-defense must also meet the requirements of necessity and proportionality. Necessity remains the essential requirement for the exercise of self-defense. Are there reasonable alternatives to the planned defensive action? Has the target state taken effective steps to end the threat of further AOG attacks, ending the necessity for counter-attack? Has the Security Council intervened to end the threat? Is the strength of the anticipated counter-attack commensurate with the scale of the AOG attack? Is the counter-attack likely to result in civilian death or wounding, or destruction or damage to civilian objects that is disproportionate to the direct military advantage to be gained? Also, “[t]he action needed to halt and repulse the attack may well have to assume dimensions disproportionate to those of the attack suffered.”¹⁸ In other words, “self-defense is not a punitive measure and is not meant to provide an open-ended justification for the use of extraterritorial force, [and] when must it

¹³ Terry D. Gill and Kinga Tibori-Szabó, “Twelve Key Questions on Self-Defense against Non-State Actors,” 95 *Int’l L. Studies* (2019), 467, 495.

¹⁴ Elizabeth Wilmshurst, “Conclusions,” in Wilmshurst, ed., *International Law and the Classification of Conflicts* (Oxford: Chatham House and Oxford University Press, 2012), at 478, 484.

¹⁵ Noam Lubell, “Fragmented Wars: Multi-Territorial Military Operations against Armed Groups,” 93 *Int’l L. Stud.* 215 (2017), 229-30.

¹⁶ *Corfu Channel Case (U.K. and N. Ireland v. Albania)*, Merits, 1949 *I.C.J. Rep.* 4, para. 22 (April 9).

¹⁷ Yoram Dinstein, *War, Aggression and Self-Defence*, 5th ed. (Cambridge: Cambridge University Press, 2012), 193.

¹⁸ Roberto Argo, “The internationally wrongful act of State,” Document A/CN.4/318/Add. 5-7, Addendum to Eighth Report on State Responsibility,” Chapter 5, 2 *Yearbook Int’l. L. Commission* 13 (1980), para. 121.

be exercised and for how long does the right remain operative?”¹⁹

There is a growing recognition that rather than looking at each terrorist attack or potential attack as an armed attack in isolation, and examining the necessity, proportionality and immediacy criteria for each attack separately, terrorist groups now should be “viewed as conducting campaigns.” Thus, “once it is established that an ongoing campaign is underway, acts of self-defence are acceptable throughout its course, so long as the purpose is actually to defeat the campaign.”²⁰

How far into a neighboring state may a counter-attack in self-defense proceed? That is, so-far, an unanswered question. What is known is that the May 2011 U.S. operation to capture or kill Osama Bin Laden involved flying U.S. combatants to Abbottabad, 120 miles inside Pakistan without that state’s permission or knowledge. Distance in pursuit into a neighboring state has not yet been adjudicated.

Lastly, a predicate to a counter-attack in self-defense is credible persuasive evidence that the initial attack was by the AOG to be pursued and counter-attacked.

“Unwilling or Unable” Doctrine

Today, the controversial “willing and able” doctrine plays a role in U.S. and other states’ cross-border counter-attacks based on self-defense. Professor Michael Schmitt outlines the rationale of the doctrine:

The only sensible balancing of the territorial integrity and self-defense rights is one that allows the State exercising self-defense to conduct counter-terrorist operations in the State where the terrorists are located if that State is either unwilling or incapable of policing its own territory. A de-

mand for compliance should precede the action and the State should be permitted an opportunity to comply with its duty to ensure its territory is not being used to the detriment of others. If it does not, any subsequent nonconsensual counter-terrorist operations into the country should be strictly limited to the purpose of eradicating the terrorist activity...and the intruding force must withdraw immediately upon accomplishment of its mission.”²¹

The DoD Law of War Manual asserts the U.S. right to use force in self-defense when a foreign state is “unwilling or unwilling” to protect U.S. nationals within the foreign state.²² The U.K. Manual of the Law of Armed Conflict says much the same thing.²³ Both manuals specify that the right to use force will be asserted in cases in which U.S./U.K. civilian nationals are being held by another state. Neither manual speaks of cross-border counter attacks, or otherwise places limits on the asserted right to use armed force in such circumstances. A former U.S. State Department Legal Advisor addressed the U.S. position, saying, “Over a century of state practice supports the conclusion that a state may respond with military force in self-defense to such [cross-border-and-retreat] attacks, at least where the harboring state is unwilling or unable to take action to quell the attacks...”²⁴

“Unwilling or unable” was asserted as the U.S. legal basis of operation to capture or kill Osama bin Laden. “Unfortunately, international law currently gives the United States (or any state in a similar position) little guidance about what factors are relevant when making such a determination.”²⁵

Professor Ruth Wedgwood, direct in her assessment of the unwilling state, asks, “If a host country permits the use of its territory as a staging area for terrorist attacks when it could shut those operations

¹⁹ Terry D. Gill and Kinga Tibori-Szabó, “Twelve Key Questions on Self-Defense against Non-State Actors,” 95 *Int’l L. Studies* (2019), at 492.

²⁰ Laurie R. Blank, “The Extent of Self-Defence Against Terrorist Groups: For How Long and How Far,” 47 *Israel Yearbook on Human Rights* (March 2017), 1-21, *citing* M.N. Schmitt, “Counter-Terrorism and the Use of Force in International Law,” 5 *Marshall Center Papers* 20 (2002).

²¹ Michael N. Schmitt, “Targeting and Humanitarian Law: Current Issues,” 33 *Israel Yearbook on Human Rights* (2003), 59, 88-9.

²² DoD Law of War Manual, *supra*, note 21, at para. 1.11.5.3.

²³ U.K. Ministry of Defence, *The Manual of the Law of Armed Conflict* (Oxford: Oxford University Press, 2004), para. 1.5.

²⁴ John Bellinger speech at the London School of Economics, “Legal Issues in the War on Terrorism,” 31 Oct. 2006, referring to the 1837 Caroline incident. Speech available on-line.

²⁵ Ashley S. Deeks, “‘Unwilling or Unable’: Toward a Normative Framework for Extraterritorial Self-Defense,” 52-3 *Va. J. of Int’l L.*, (2012), 483, 485-86. The pioneering article addressing the concept.

down, and refuses requests to take action, the host government cannot expect to insulate its territory against measures of self-defense.”²⁶

Professor Yoram Dinstein writes of the unable state, “If Al Qaeda terrorists find a haven in a country which...declines to lend them any support, but all the same is too weak to expel or eliminate them, the USA would be entitled (invoking the right of self-defense) to use force against the terrorists within the country of the reluctant host State.”²⁷ The U.S. and nine other states explicitly endorse the “unwilling or unable” doctrine in NIACs:²⁸ Additionally, “many states might tolerate operations under an unable or unwilling standard without actively supporting those operations or legitimizing them with legal language.”²⁹

Cross-border attacks by victim states in NIACs certainly have not risen to customary law status, and the concept is far from objection-free. Still, it may be argued that “[p]ost-September 11, Security Council resolutions have in effect extended the definition of armed attack to include acts undertaken by non-State actors operating from the territory of a State that is unable or unwilling to prevent terrorist acts.”³⁰

The U.S. position was made clear in a 1985 declaration made to the Security Council by a U.S. representative to the U.N.:

It is the collective responsibility of sovereign States to see that terrorism enjoys no sanctuary, no safe haven, and that those who practice it have no immunity from the responses their acts warrant. Moreover, it is the responsibility of each State to take appropriate steps to prevent persons or groups within its sovereign territory from perpetrating such acts.³¹

But “the American legal position is not without its critics and the doctrine remains highly controversial, with a significant number of scholars rejecting it...”³²

Indeed, there are valid reasons to question “unwilling and unable” doctrine. If a sheltering state does not bend to a counter-attacking state’s desires or views, the counter-attacking state may unilaterally deem the sheltering state unwilling or unable and take commensurate action? Further, the unwilling/unable assertion is in the hands of the counter-attacking state without near-term controls or checks. Also, state practice is not yet so consistent as to approach *opinio juris* – the approving opinion of the international community as a whole.

One might ask, where would states that bear the brunt of the continuing fight against AOGs be, without the lawful ability to respond to cross-border attacks by counter-attacking? Unable or unwilling doctrine has a moral clarity and LOAC logic that is difficult to ignore.

The U.S. (and Russian Federation’s) interpretation of unwilling or unable doctrine is not unanimous but it is clear: In a NIAC, if attacked by an AOG that then retreats to an adjacent sheltering state that is unwilling or unable to control the AOG’s aggressive acts, they will counter-attack and pursue with intent to engage the AOG.

²⁶ Ruth Wedgwood, “Responding to Terrorism: The Strikes against bin Laden,” 24 *Yale J. of Int’l L.* (1999), 559, 565.

²⁷ Dinstein, “Jus ad Bellum Aspects of the ‘War on Terrorism.’” in Wybo P. Heere, ed., *Terrorism and the Military: International Legal Implications* (The Hague: Asser Press, 21).

²⁸ The nine others are the United Kingdom, Germany, The Netherlands, Czech Republic, Canada, Australia, Russian Federation, Turkey and Israel. Three others, Belgium, Iran and South Africa implicitly endorse the doctrine. Elena Chachko and Ashley Deeks, “Which States Support the ‘Unwilling and Unable’ Test?” *Lawfare*, Oct. 10, 2016, available on-line.

²⁹ Monika Hakimi, “Defensive Force against Non-State Actors: The State of Play,” 91 *Int’l L. Stud.* 1 (2015), 14.

³⁰ Muge Kinacioglu, “A Response to Amos Guiora: Reassessing the Parameters of Use of Force in the Age of Terrorism,” 13-1 *J. of Conflict & Security L.* (Spring 2008), 33, 39.

³¹ UN Doc. S/PV.2615, 4 Oct. 1985, § 252. Available on-line.

³² Oren Gross, “Unresolved Legal Questions Concerning Operation Inherent Resolve,” 52-2 *Texas Int’l L. J.*, 221, 249 (2017).