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RECEIVED 26 November 2025

REVISED 05 February 2026

ACCEPTED 19 February 2026

PUBLISHED 11 March 2026

CITATION

Khwaileh KM (2026) The limits of law in a post-Westphalian world: the legal and political status of powerful non-state armed actors—a comparative study of Hezbollah and the Houthis. *Front. Polit. Sci.* 8:1754918. doi: 10.3389/fpos.2026.1754918

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The limits of law in a post-Westphalian world: the legal and political status of powerful non-state armed actors—a comparative study of Hezbollah and the Houthis

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This article investigates the profound challenges posed by powerful, sub-state armed actors to the international legal system and the traditional Westphalian concept of state sovereignty. Through a comparative analysis of Hezbollah in Lebanon and the Houthis (Ansar Allah) in Yemen, the study examines how these groups—which combine military capability, territorial control, and political governance—function as “states within a state” and fundamentally disrupt the state-centric international order. The research addresses three primary areas: (1) the legal status and personality of these groups under the Law of Armed Conflict (LOAC) and International Humanitarian Law (IHL); (2) the extent to which their organizational capacity and de facto governance erodes state sovereignty in the Middle East; and (3) the implications of their status for international strategies of engagement, containment, and accountability. By analyzing doctrinal law, state practice, and UN Security Council resolutions, this article demonstrates that both Hezbollah and the Houthis possess a form of functional legal personality that necessitates revision of current international legal categories. The findings suggest that the involvement of these actors in conflicts—classified primarily as Non-International Armed Conflicts (NIACs) but often with international dimensions—requires a framework for understanding their functional recognition and developing more effective, legally compliant counter-terrorism and humanitarian response policies. The article contributes to scholarly debates on sovereignty, international legal personality, and the future of armed conflict in an era of state fragmentation and hybrid governance.

KEYWORDS

accountability, Hezbollah, Houthis, international humanitarian law, legal personality, NIAC, non-state armed actors, Westphalian sovereignty

1 Introduction

The international system, fundamentally structured since the Peace of Westphalia in 1648, is predicated on the principle of exclusive state sovereignty within territorial borders. This foundational model is now being fundamentally disrupted by the contemporary rise of powerful, sophisticated Non-State Armed Actors (NSAAs), ushering in what many scholars increasingly characterize as a “post-Westphalian” international order (Diniz and Proença Júnior, 2015; Selim, 2023). This article argues that Hezbollah and the Houthis possess a limited, functional international legal

personality that existing international legal frameworks fail to adequately capture. The article focuses on Hezbollah in Lebanon and the Houthis (Ansar Allah) in Yemen as prototypical examples that severely challenge traditional conceptions of statehood, sovereignty, and international legal personality.

These organizations transcend the conventional definitions of insurgents or terrorist groups. They function as hybrid entities that command substantial resources, exercise *de facto* governance over territories and populations, provide public services, maintain highly organized military forces, and project significant power across international boundaries. Hezbollah, for instance, operates simultaneously as a major political party in Lebanon's parliament, a provider of essential social services, and a formidable military force that has engaged in interstate conflict, notably the 2006 war with Israel (Hazbun, 2016; Samaan, 2017). Similarly, the Houthis now exercise governmental authority over large parts of northern Yemen, including the capital Sana'a, and have recently demonstrated the capacity to conduct sophisticated maritime operations in the Red Sea that threaten global shipping, prompting multinational military responses (Eleftheriadou, 2021; Fernandes, 2024).

This hybridity creates complex and acute legal ambiguity regarding the application of International Humanitarian Law (IHL). The core questions are: Do these groups possess limited international legal personality, and what rules govern their actions, including extraterritorial operations? Crucially, how can they be effectively held accountable for IHL violations? These inquiries are essential for developing workable strategies for conflict resolution, ensuring humanitarian access, and refining counter-terrorism policies. The erosion of exclusive state sovereignty in Lebanon and Yemen—characterized by scholars as “parallel sovereignties” or the emergence of “proto-states”—represents a broader global phenomenon (Eleftheriadou, 2021; Mahdi, 2023). In Lebanon, Hezbollah maintains an arsenal that rivals the recognized state's armed forces and exerts critical control over national security policy (Hazbun, 2016; Meier, 2018). In Yemen, the Houthis govern millions and manage vital economic resources, while the internationally recognized government controls only limited territory (Ahram, 2022; Eleftheriadou, 2021).

While both groups function as powerful sub-state actors, they represent distinct models of governance and territorial control. The Houthis represent a ‘classic’ case of an insurgent organization that has successfully taken over significant portions of a country, including the capital Sana'a, through force of arms. In doing so, they have singlehandedly assumed formal government prerogatives, such as taxation and judicial administration over millions of citizens, albeit without international recognition. In contrast, Hezbollah operates within the framework of a formally sovereign, though weak, Lebanese state. Hezbollah's influence is better characterized as a form of ‘state capture,’ where the group utilizes its dual status as a political party and a militia to exert often covert sway over national security and foreign policy decisions (Manfredi Firmian, 2024; Khatib, 2025; Khwaileh, 2025). This distinction is critical: whereas the Houthis have largely replaced the recognized government in the northwest, Hezbollah has embedded itself within existing state structures to redirect sovereign authority toward its own strategic ends (Manfredi Firmian, 2024; Khatib, 2025).

This article addresses these challenges through a rigorous comparative analysis designed to examine how international law and state practice are adapting to these formidable non-state sovereign challenges. The central argument of this research is that Hezbollah and the Houthis possess a functional legal personality under international law that, while limited and subject to contestation, requires pragmatic recognition. This recognition is necessary not for political legitimization,

but as the essential foundation for developing effective strategies for accountability, humanitarian protection, and conflict resolution. This functional personality is derived purely from their demonstrated capacity, including the actual exercise of governmental functions, their sustained military operations, and their capacity to enter into binding agreements with state and non-state actors.

This paper is structured around three interrelated research questions:

- 1 Legal Personality: Can Hezbollah and the Houthis be considered belligerents or entities with “relative international legal personality” under the Law of Armed Conflict (LOAC), particularly in light of their ability to negotiate agreements and conduct sustained military operations against state actors?
- 2 Westphalian Challenge: How do the political integration and territorial governance capabilities of these groups fundamentally challenge the Westphalian state model in the Middle East, and how is this challenge manifested in the sovereignty of Lebanon and Yemen?
- 3 IHL Accountability: What are the specific IHL obligations that apply to these groups as parties to Non-International Armed Conflicts (NIACs), and what are the most effective strategies for the international community to enhance their compliance and accountability for serious violations?

The significance and contribution of this research are threefold. First, it develops a nuanced framework for understanding the concept of “functional belligerency” or “relative legal personality” for highly organized, quasi-state NSAs operating across the spectrum of armed conflict. Second, it provides policy-relevant recommendations on engagement strategies that navigate the complex tension between the necessity of humanitarian dialogue—including securing humanitarian access and negotiating ceasefires—and the legal requirement to hold these groups accountable for IHL and International Human Rights Law (IHRL) violations. Third, this paper advances academic debates on the evolving nature of sovereignty and the challenges to the state-centric international order by analyzing Hezbollah and the Houthis as prototypical examples of the future landscape of armed conflict.

The remainder of the article proceeds as follows: Section 2 reviews the theoretical frameworks on sovereignty, legal personality, and IHL; Section 3 examines the legal status of NSAs under IHL, focusing on Common Article 3 and customary international law; Section 4 provides a detailed comparative case study of Hezbollah; Section 5 offers a parallel analysis of the Houthis; Section 6 discusses accountability mechanisms and compliance strategies; Section 7 synthesizes the findings and discusses their implications for international law and policy; and Section 8 concludes with recommendations for legal reform and future research directions.

2 Theoretical frameworks: sovereignty, legal personality, and the law of armed conflict

2.1 The erosion of Westphalian sovereignty

The Westphalian system, established by the Peace of Westphalia treaties in 1648, created the foundational principle of modern

international relations, the sovereign equality of states and the principle of non-intervention in domestic affairs (Krasner, 1999). This system assumes that states possess exclusive authority within their territorial boundaries and that the international order consists primarily of interactions among sovereign states. However, contemporary scholarship increasingly questions the continuing relevance of this model, particularly in regions experiencing state fragility, civil war, and the rise of powerful non-state actors.

Diniz and Proença Júnior (2015) argue that the “material foundations” of Westphalian international law are collapsing. They contend that changing strategic realities—including the proliferation of non-state armed groups, transnational terrorism, and asymmetric warfare—have outpaced state-centric legal assumptions. The traditional monopoly on violence that characterized Westphalian sovereignty is increasingly challenged by non-state actors who possess military capabilities that rival or exceed those of recognized states.

In the Middle East context, scholars have documented how the post-2011 Arab uprisings accelerated the erosion of Westphalian norms. Selim (2023) demonstrates that the Arab League’s post-2011 practice has shifted away from strict non-intervention toward endorsing regime change and external intervention, reflecting a regional norm change that undermines traditional sovereignty claims. Similarly, Taman and El-Enany (2022) argue that interconnected internal uprisings, proxy wars, and external interventions have made classical territorial sovereignty inadequate for peacebuilding in the Middle East and North Africa (MENA) region, necessitating what they term a “new Westphalia.”

The Lebanese and Yemeni cases exemplify these broader trends. Hazbun (2016) develops the concept of “hybrid sovereignty” to describe Lebanon’s security governance, showing how plural security arrangements involving both state and non-state actors produce negotiated sovereignty rather than simple state weakness. In this model, Hezbollah’s military and political presence is not merely a challenge to Lebanese sovereignty but has become embedded in the country’s governance structures through complex bargains and accommodations. Similarly, Eleftheriadou (2021) analyzes Yemen’s fragmentation as the creation of “parallel sovereignties” and “proto-states,” with the Houthis representing the most developed example. These parallel structures exercise governmental functions—including taxation, security provision, and judicial administration—that traditionally define sovereignty.

Ramadan and Fregonese (2017) contribute to this theoretical framework by showing how long-standing exceptions and hybrid arrangements in Lebanon (such as Palestinian refugee camps) produce durable hybrid sovereignties that reshape state authority rather than simply eroding it. This perspective suggests that hybrid sovereignty is not merely a transitional phase or a symptom of state failure, but may represent a stable, if contested, form of political organization.

Therefore, the status of these groups presents a direct challenge to the Declaratory and Constitutive theories of statehood. Under the Montevideo Convention (1933), a state requires a permanent population, defined territory, government, and the capacity to enter into relations. The Houthis, for instance, arguably meet the first three criteria but lack the fourth—international recognition—which is the hallmark of the Constitutive theory. By operating in this ‘legal twilight,’ these groups possess what can be termed a ‘truncated sovereignty.’ They exercise effective control (the Declaratory view) but are denied formal standing in the international community (the Constitutive view). Recognizing their ‘functional legal

personality’ provides a middle path that acknowledges their de facto power without granting the full political legitimacy of statehood.

2.2 Functional legal personality of non-state actors

The question of whether non-state actors possess international legal personality has been debated by scholars and practitioners for decades. Traditional international law reserves full legal personality for states and, to a limited extent, international organizations. However, the functional needs of the international system have increasingly required recognizing that certain non-state entities possess limited or relative legal personality for specific purposes.

Worster (2015) provides the most comprehensive theoretical framework for understanding the relative international legal personality of non-state actors. He argues that international legal personality should be understood as functional and disaggregated rather than absolute. In this model, various entities—including corporations, individuals, NGOs, and armed groups—may possess specific rights and obligations under international law without enjoying the full suite of sovereign prerogatives reserved for states. Worster contends that this functional approach better reflects actual state practice and institutional needs than rigid categorical distinctions between states and non-states.

Applied to NSAAs, this functional approach suggests that groups like Hezbollah and the Houthis may possess legal personality for certain purposes without being recognized as states or enjoying full international legal personality. For example, both groups have entered into ceasefire agreements with state actors—Hezbollah through various arrangements brokered during and after the 2006 war, and the Houthis through negotiations with Saudi Arabia and the Yemeni government. These agreements implicitly recognize the groups’ capacity to undertake international obligations, a hallmark of legal personality.

Murray (2015) contributes to this framework by analyzing how IHL treaties can bind non-state armed groups even without their express consent. He argues that the legislative-jurisdiction theory—which attributes treaty obligations to territorial entities based on the state’s jurisdiction—provides a doctrinal mechanism for applying IHL to NSAAs. This approach resolves the theoretical problem of how groups that have not ratified treaties can nonetheless be bound by them, supporting the view that NSAAs possess functional legal personality in the domain of armed conflict law.

Hiemstra and Nohle (2019) examine the role of non-state armed groups in the development and interpretation of IHL. They argue that while formal law-making remains state-centric, NSAAs increasingly participate in shaping IHL norms through their practice, engagement with humanitarian organizations, and promulgation of internal codes of conduct. This participatory role, though contested, suggests a form of legal agency that transcends the traditional state/non-state binary.

2.3 The law of armed conflict and non-international armed conflicts

The legal framework governing armed conflicts distinguishes between International Armed Conflicts (IACs), which occur between states, and Non-International Armed Conflicts (NIACs), which occur between a state and one or more non-state armed groups or between such groups. This distinction has significant legal consequences, as

IACs trigger the full body of IHL including the four Geneva Conventions and Additional Protocol I, while NIACs are governed primarily by Common Article 3 of the Geneva Conventions and Additional Protocol II (where applicable), supplemented by customary international law.

Common Article 3, often described as a “convention in miniature,” establishes minimum humanitarian standards applicable in all armed conflicts “not of an international character.” These standards include prohibitions on violence to life and person, taking of hostages, outrages upon personal dignity, and the passing of sentences without proper judicial guarantees (Geneva Conventions, 1949). Dinstein (2014) emphasizes that Common Article 3 creates binding obligations for all parties to a NIAC, including non-state armed groups, and represents the irreducible core of IHL.

The threshold for determining when a situation of violence rises to the level of a NIAC was established by the International Criminal Tribunal for the former Yugoslavia (ICTY) in the Tadić case. The Tribunal held that a NIAC exists when there is “protracted armed violence between governmental authorities and organized armed groups or between such groups” (International Criminal Tribunal for the former Yugoslavia, 1995, para. 70). This definition requires two elements: (1) a certain level of intensity of violence, and (2) a sufficient degree of organization of the parties involved. Both Hezbollah and the Houthis clearly meet these criteria, as they possess hierarchical command structures, control territory, and have engaged in sustained military operations over extended periods.

Sivakumaran (2015) provides detailed analysis of the addressees of Common Article 3, clarifying that both state and non-state parties to a NIAC are bound by its provisions. This binding effect does not depend on the group’s recognition as a belligerent or its consent to be bound, but flows from the nature of IHL as law applicable to situations of armed conflict. The practical implication is that Hezbollah and the Houthis bear direct obligations under IHL, including the duty to treat captured persons humanely, to distinguish between combatants and civilians, and to allow humanitarian access.

Customary IHL extends these obligations considerably beyond the text of Common Article 3. The International Committee of the Red Cross (ICRC) Customary IHL Study identifies 161 rules of customary international law applicable in armed conflicts, many of which apply in both IACs and NIACs. These rules cover topics including the conduct of hostilities, treatment of persons in the power of a party to the conflict, and implementation of IHL. Importantly, customary IHL binds all parties to a conflict regardless of treaty ratification, providing a comprehensive legal framework applicable to NSAAs.

Beyond treaty law, the legal accountability of Hezbollah and the Houthis is anchored in customary international law. The International Committee of the Red Cross (ICRC) study on Customary IHL confirms that many rules governing internal and international conflicts apply to all parties, regardless of their formal treaty status. While NSAAs cannot formally sign the Geneva Conventions, their consistent practice and the international community’s expectations of them suggest that they are bound by customary norms. This is particularly relevant for the Houthis, whose governance in Sana’a requires adherence to customary rules regarding the protection of civilians and the administration of justice—norms that have attained the status of *jus cogens*.

2.4 Asymmetric conflict and hybrid warfare

The conflicts involving Hezbollah and the Houthis exemplify broader trends in contemporary warfare characterized by asymmetry and hybridity. Asymmetric conflict refers to situations where parties to a conflict differ significantly in military capabilities, strategies, and relationship to international law. Hybrid warfare combines conventional military operations with irregular tactics, cyber operations, information warfare, and political subversion (Hoffman, 2007).

Both Hezbollah and the Houthis employ hybrid strategies that blur the lines between military and civilian spheres. Hezbollah’s integration into Lebanese political structures while maintaining an independent military capability represents a form of strategic hybridity that complicates legal classification and targeting decisions (Aoun, 2019). The Houthis’ combination of conventional military operations (including ballistic missile attacks), guerrilla tactics, and governance functions similarly challenges traditional legal categories (Fernandes, 2024).

This hybridity has significant implications for IHL application. The principle of distinction—which requires parties to a conflict to distinguish between combatants and civilians—becomes more difficult to apply when armed groups are deeply embedded in civilian populations and when fighters alternate between combat and civilian roles. Similarly, the principle of proportionality in attack—which prohibits attacks that would cause excessive civilian harm relative to the anticipated military advantage—requires complex assessments when military objectives are located in populated areas.

3 The legal status of non-state armed actors under international humanitarian law

3.1 Common article 3 and the binding nature of IHL on NSAAs

Common Article 3 of the Geneva Conventions represents the foundational legal framework governing NIACs and establishes the minimum humanitarian standards applicable to all parties in such conflicts. The article’s opening phrase—“each Party to the conflict shall be bound to apply, as a minimum”—creates direct legal obligations for non-state armed groups without requiring their formal recognition or consent (Geneva Conventions, 1949).

The binding nature of Common Article 3 on NSAAs has been consistently affirmed by international tribunals, the ICRC, and scholarly commentary. The ICTY in Tadić held that Common Article 3 reflects customary international law applicable to all armed conflicts and that its provisions bind all parties regardless of their legal status (International Criminal Tribunal for the former Yugoslavia, 1995). This position has been reinforced by subsequent jurisprudence and is now widely accepted in international legal doctrine.

Dinstein (2014) emphasizes that the obligations under Common Article 3 are reciprocal and binding on all parties to a NIAC. The article prohibits violence to life and person (including murder, mutilation, cruel treatment, and torture), taking of hostages, outrages upon personal dignity (including humiliating and degrading treatment), and the passing of sentences and carrying out of executions without

judgment by a regularly constituted court affording judicial guarantees. These prohibitions apply equally to state armed forces and non-state armed groups.

Murray (2015) addresses the theoretical question of how treaty obligations can bind non-state actors that have not ratified the treaties. He argues that the legislative-jurisdiction theory provides the most coherent doctrinal basis: IHL treaties create obligations that attach to the territory under the jurisdiction of the state party, and any entity exercising governmental functions or military authority within that territory becomes subject to those obligations. This approach avoids the need for NSAAs to formally accede to treaties while ensuring that IHL remains applicable to all parties in armed conflicts.

Beyond Common Article 3, Additional Protocol II to the Geneva Conventions provides more detailed rules for NIACs, though it applies only when certain threshold conditions are met and only binds states that have ratified it (Additional Protocol II, 1977). The Protocol requires that the non-state armed group must exercise control over territory sufficient to enable it to carry out sustained and concerted military operations and to implement the Protocol. Both Hezbollah and the Houthis meet these criteria, as they control defined territories and possess the organizational capacity to implement IHL norms.

3.2 Customary international humanitarian law

The ICRC Customary IHL Study represents the most comprehensive assessment of customary rules applicable in armed conflicts. The Study identifies 161 rules of customary IHL, many of which apply in both international and non-international armed conflicts. For NSAAs, customary IHL is particularly significant because it binds all parties to a conflict regardless of treaty ratification or formal legal status.

Key customary rules applicable to NSAAs include:

- 1 The principle of distinction (Rule 1): Parties to a conflict must at all times distinguish between civilians and combatants, and attacks may only be directed against combatants. This rule applies in all armed conflicts and requires NSAAs to identify their fighters and avoid conducting operations that deliberately target civilians.
- 2 The prohibition of indiscriminate attacks (Rule 11): Indiscriminate attacks are prohibited, including attacks that are not directed at a specific military objective, employ methods or means of combat that cannot be directed at a specific military objective, or employ methods or means of combat the effects of which cannot be limited as required by IHL.
- 3 Proportionality in attack (Rule 14): Launching an attack that may be expected to cause incidental loss of civilian life, injury to civilians, or damage to civilian objects that would be excessive in relation to the concrete and direct military advantage anticipated is prohibited.
- 4 Precautions in attack (Rules 15–21): Parties to a conflict must take constant care to spare civilians and civilian objects, do everything feasible to verify that targets are military objectives, take all feasible precautions in the choice of means and methods of warfare to avoid or minimize civilian casualties and damage, and give effective advance warning of attacks that may affect the civilian population.

- 5 Humane treatment (Rule 87): Civilians and persons hors de combat must be treated humanely, which includes prohibitions on murder, torture, corporal punishment, mutilation, medical experimentation, taking of hostages, and outrages upon personal dignity.
- 6 Prohibition of arbitrary detention (Rule 99): Arbitrary deprivation of liberty is prohibited, and persons deprived of their liberty must be released as soon as the reasons for their detention cease to exist.
- 7 Fair trial guarantees (Rules 100–103): No one may be convicted or sentenced except pursuant to a fair trial affording essential judicial guarantees, including presumption of innocence, right to be informed of charges, and right to defense.

These customary rules create extensive obligations for NSAAs that go well beyond the minimum standards of Common Article 3. Importantly, the customary nature of these rules means they bind Hezbollah, the Houthis, and other NSAAs regardless of whether Lebanon or Yemen has ratified Additional Protocol II or other IHL treaties.

3.3 Organizational requirements and command responsibility

For IHL to apply to a non-state armed group, the group must meet certain organizational requirements. The Tadić test requires that the group be sufficiently organized to conduct sustained military operations and implement IHL (*International Criminal Tribunal for the former Yugoslavia, 1995*). Indicators of sufficient organization include the existence of a command structure, the ability to recruit and train fighters, the capacity to plan and carry out coordinated military operations, the ability to speak with one voice, and the capacity to implement IHL (including through disciplinary mechanisms).

Both Hezbollah and the Houthis clearly meet these organizational requirements. Hezbollah possesses a sophisticated hierarchical structure with distinct military and political wings, maintains training facilities, operates an extensive communications network, and has demonstrated the capacity to plan and execute complex military operations including the use of advanced weapons systems (Samaan, 2017). The Houthis similarly possess a clear command structure, control territory, administer governance functions, and have conducted sustained military campaigns involving conventional and unconventional tactics (Eleftheriadou, 2021; Ahram, 2022).

The organizational capacity of NSAAs also has implications for command responsibility. Under IHL and international criminal law, commanders—whether in state armed forces or non-state armed groups—bear responsibility for crimes committed by subordinates if they knew or should have known about the crimes and failed to prevent them or punish the perpetrators (Additional Protocol I, Article 86–87; Rome Statute, Article 28). This doctrine of command responsibility applies to leaders of NSAAs and provides a mechanism for individual criminal accountability for IHL violations.

Gaggioli (2018) examines the targeting of individuals belonging to organized armed groups and the legal criteria for determining membership. She argues that membership in an NSAA can be established through various factors including formal enrollment, training, receipt of salary or benefits, and continuous combat function. Individuals who are members of organized armed groups may be lawfully targeted in armed conflict, but determining membership requires

careful factual assessment to ensure compliance with the principle of distinction.

3.4 Special agreements and engagement with NSAAs

Article 3 common to the Geneva Conventions includes a provision encouraging parties to a conflict to “bring into force, by means of special agreements, all or part of the other provisions of the present Convention” (Geneva Conventions, 1949, Common Article 3, para. 3). This provision explicitly contemplates that states and non-state armed groups may enter into agreements to apply additional IHL rules beyond the minimum standards of Common Article 3.

Special agreements serve several functions. First, they can extend the application of IHL rules that would otherwise apply only in IACs to the context of a NIAC, thereby enhancing protection for affected populations. Second, they provide a mechanism for clarifying how IHL applies to specific circumstances of a conflict, reducing ambiguity and potential violations. Third, they create a framework for humanitarian organizations to engage with NSAAs to improve compliance with IHL.

Bellal (2018) advocates for pragmatic engagement with armed NSAAs to improve respect for IHL. She argues that humanitarian engagement, tailored dialogue, and monitoring mechanisms can promote IHL compliance by non-state groups. Such engagement does not constitute recognition of the political legitimacy of NSAAs but reflects the practical reality that improving humanitarian protection requires communication with all parties that exercise control over populations and territory.

The practice of special agreements and humanitarian engagement with NSAAs remains contested. Some states resist such engagement on the grounds that it may confer legitimacy on groups they designate as terrorist organizations. However, the ICRC and other humanitarian organizations have long maintained that humanitarian dialogue with all parties to a conflict is essential for protecting civilians and ensuring respect for IHL (ICRC, 2011). This position is supported by the explicit language of Common Article 3 encouraging special agreements and by the functional reality that humanitarian goals cannot be achieved without engaging parties that exercise territorial control.

4 Case study: Hezbollah and the challenge to Lebanese sovereignty

4.1 Historical development and organizational structure

Hezbollah (the “Party of God”) emerged in the early 1980s in response to the Israeli invasion of Lebanon in 1982. Founded with support from Iran and Syria, the organization initially focused on resistance to Israeli occupation of southern Lebanon. Over four decades, Hezbollah has evolved from a guerrilla resistance movement into a complex hybrid entity that combines military, political, and social functions (Hazbun, 2016; Aoun, 2019).

Hezbollah’s organizational structure reflects this multifaceted character. The group maintains distinct but interconnected wings:

- 1 **Military Wing:** Hezbollah’s military apparatus, sometimes referred to as the Islamic Resistance, comprises an estimated 20,000–30,000 fighters organized in conventional military units. The group possesses an extensive arsenal including rockets, missiles, anti-tank guided weapons, and unmanned aerial vehicles. Samaan (2017) documents how Hezbollah developed sophisticated missile warfare capabilities beginning in the 1990s, evolving from simple Katyusha rockets to precision-guided missiles capable of striking targets throughout Israel.
- 2 **Political Wing:** Hezbollah participates in Lebanese politics as a registered political party. It holds seats in Lebanon’s parliament and has participated in coalition governments, including holding ministerial portfolios. This political integration gives Hezbollah significant influence over Lebanese state policy, particularly regarding security and foreign affairs (Meier, 2018).
- 3 **Social Services Wing:** Hezbollah operates an extensive network of social services including hospitals, schools, orphanages, and reconstruction programs. These services, provided primarily to Shi’a communities in southern Lebanon, the Beqaa Valley, and southern Beirut, generate popular support and legitimacy for the organization (Rizkallah, 2017).

This hybrid structure creates significant legal and political challenges. Unlike traditional insurgent groups that operate outside state structures, Hezbollah is simultaneously part of the Lebanese state (through its political participation) and independent from it (through its autonomous military capability). This dual status complicates efforts to apply IHL classifications and to hold the group accountable for its actions.

4.2 Territorial control and governance functions

Hezbollah exercises significant control over territory and governance functions in Lebanon, though the nature and extent of this control differs from conventional state sovereignty. Hazbun (2016) characterizes Lebanon’s security governance as “plural” or “hybrid,” with multiple actors—including the Lebanese Armed Forces, Internal Security Forces, and Hezbollah—sharing responsibility for security provision in different areas and contexts.

In southern Lebanon, Hezbollah functions as the de facto security authority in many areas, particularly in border regions adjacent to Israel. Meier (2018) documents how Hezbollah has been assigned tasks of sovereignty management in frontier regions, effectively performing state functions in these areas. This includes maintaining order, controlling access, and implementing security measures. The Lebanese state has largely accommodated this arrangement, in part due to Hezbollah’s military superiority and in part due to political bargains within Lebanon’s confessional power-sharing system.

Hezbollah’s governance functions extend beyond security provision. The organization administers judicial processes through religious courts, provides social services that parallel or substitute for

state provision, and manages economic activities in areas under its influence. This functional governance creates a form of “state within a state” that challenges traditional notions of sovereignty while stopping short of outright secession or territorial partition (Rizkallah, 2017).

The concept of hybrid sovereignty developed by Hazbun (2016) provides a useful framework for understanding this arrangement. Rather than viewing Hezbollah’s role as simply eroding Lebanese sovereignty, hybrid sovereignty recognizes that complex bargains and accommodations between state and non-state actors can produce stable, if contested, governance arrangements. In this model, sovereignty is negotiated and plural rather than absolute and exclusive.

4.3 The 2006 Lebanon war: legal classification and conduct

The 2006 conflict between Israel and Hezbollah represents a critical case for examining the legal status of NSAAs and the application of IHL. The conflict began on July 12, 2006, when Hezbollah fighters crossed into Israeli territory, killed several Israeli soldiers, and captured two others. Israel responded with extensive military operations against Hezbollah targets in Lebanon, including airstrikes, artillery bombardment, and a ground invasion. The conflict lasted 34 days and resulted in significant casualties and destruction, particularly in southern Lebanon and southern Beirut (Hazbun, 2016).

The legal classification of the 2006 conflict has been debated by scholars and practitioners. Several possible classifications could apply:

- 1 Non-International Armed Conflict (NIAC): Under this classification, the conflict would be governed by Common Article 3 and customary IHL applicable to NIACs. This classification treats Hezbollah as a non-state armed group fighting against Israel, with the conflict occurring on Lebanese territory.
- 2 International Armed Conflict (IAC): Some scholars argue that the conflict should be classified as an IAC on the grounds that Hezbollah was acting as a *de facto* agent of Lebanon or that the conflict involved two state-like entities (Israel and Hezbollah as a quasi-state actor). This classification would trigger the full body of IHL applicable to IACs, including the Geneva Conventions and Additional Protocol I.
- 3 Internationalized NIAC: This hybrid classification recognizes that the conflict had characteristics of both a NIAC (involving a non-state actor) and an IAC (involving cross-border military operations between organized forces). Under this approach, different rules might apply to different aspects of the conflict.

The ICRC and most legal scholars have treated the 2006 conflict as falling under the law of NIAC, while recognizing its international dimensions (ICRC, 2006). This classification has important implications for targeting rules, combatant status, and the legal protections afforded to captured fighters. In a NIAC, members of non-state armed groups do not enjoy combatant immunity and may be prosecuted under domestic law for their participation in hostilities, even if they comply with IHL. However, they are entitled to humane treatment and fair trial guarantees under Common Article 3 and customary IHL.

The conduct of hostilities during the 2006 war raised significant IHL concerns. Israel conducted extensive airstrikes against targets in

Lebanon, including strikes on infrastructure (bridges, power stations, fuel depots) and residential areas in southern Beirut where Hezbollah maintained offices and facilities. Human Rights Watch and other organizations documented numerous incidents involving civilian casualties and questioned whether Israel’s targeting decisions complied with the principles of distinction and proportionality (Human Rights Watch, 2007).

Hezbollah launched approximately 4,000 rockets into northern Israel during the conflict, many of which struck civilian areas. The indiscriminate nature of many of these attacks—using unguided rockets fired into populated areas—raised serious IHL concerns. Human Rights Watch concluded that Hezbollah’s rocket attacks violated the prohibition on indiscriminate attacks and potentially constituted war crimes (Human Rights Watch, 2007).

Samaan (2017) analyzes Hezbollah’s missile warfare strategy, arguing that the group’s rocket and missile capabilities evolved into a deterrent posture designed to dissuade Israeli military action. This strategic evolution continued after 2006, with Hezbollah acquiring more sophisticated and longer-range missiles. The deterrent function of Hezbollah’s arsenal raises complex questions about the intersection of IHL (which governs conduct during armed conflict) and *jus ad bellum* (which governs the lawfulness of the use of force).

4.4 Regional operations and transnational dimensions

Hezbollah’s involvement in regional conflicts, particularly the Syrian civil war, further complicates its legal status and challenges Lebanese sovereignty. Beginning in 2012, Hezbollah deployed thousands of fighters to Syria to support the Assad government against opposition forces. This deployment represented a significant expansion of Hezbollah’s operations beyond Lebanon’s borders and transformed the group into a transnational military actor (Aoun, 2019).

Hezbollah’s Syrian intervention has several important implications:

- 1 Sovereignty Challenge: The deployment of Hezbollah fighters to Syria without formal authorization from the Lebanese government (though with its tacit acceptance) demonstrates the group’s autonomy in foreign policy and military matters, traditionally exclusive prerogatives of sovereign states.
- 2 IHL Application: Hezbollah’s participation in the Syrian conflict as a party to that NIAC creates obligations under IHL applicable to the Syrian context. The group’s conduct in Syria has been subject to scrutiny, with reports of involvement in siege warfare, attacks on civilian populations, and other potential IHL violations (Human Rights Watch, 2014).
- 3 Transnational Networks: Hezbollah’s regional operations reflect and reinforce its position within a broader network of Iranian-backed groups across the Middle East, sometimes referred to as the “axis of resistance.” This transnational dimension challenges state-centric approaches to conflict management and accountability.

Rizkallah (2017) and Aoun (2019) emphasize how Hezbollah has transformed military power into political influence both domestically and regionally. The group’s military capabilities and regional operations provide leverage in Lebanese politics and make it a key actor in regional geopolitics. This transformation from local resistance

movement to regional military-political force represents a significant evolution that existing legal categories struggle to capture.

4.5 Legal status and international responses

The international community's responses to Hezbollah reflect the complexity and contestation surrounding the group's legal status. Different states and international organizations have adopted varying approaches:

- 1 **Designation as Terrorist Organization:** The United States, Canada, the Netherlands, and several other states have designated Hezbollah in its entirety as a terrorist organization. The European Union has designated Hezbollah's military wing but not its political wing as a terrorist entity, reflecting a distinction that Hezbollah itself rejects.
- 2 **Recognition as Political Actor:** Many states, particularly in the Middle East, recognize Hezbollah as a legitimate political party and resistance movement. Lebanon's government includes Hezbollah as a political party, and the organization participates in elections and coalition governments.
- 3 **UN Security Council Resolutions:** UN Security Council Resolution 1701 (2006), which ended the 2006 Lebanon War, called for the disarmament of armed groups in Lebanon but did not explicitly name Hezbollah. The resolution's implementation has been partial, with Hezbollah retaining its military capabilities. Resolution 1559 (2004) had previously called for the disbanding and disarmament of Lebanese and non-Lebanese militias, widely understood to refer to Hezbollah, but this provision has not been implemented.

These divergent responses reflect fundamental disagreements about how to characterize and engage with hybrid actors that combine military, political, and social functions. The designation of Hezbollah as a terrorist organization by some states creates legal obstacles to any form of engagement, even for humanitarian purposes. Conversely, the recognition of Hezbollah as a political actor by other states and its integration into Lebanese governance structures creates a form of de facto acceptance of its status.

From an IHL perspective, Hezbollah's designation as a terrorist organization does not exempt it from obligations under the law of armed conflict. IHL applies to all parties to an armed conflict regardless of their political characterization or the legitimacy of their cause. Similarly, states engaging in armed conflict with Hezbollah remain bound by IHL regardless of how they characterize the group politically.

5 Case study: the Houthis and Yemen's fragmented sovereignty

5.1 Historical background and rise to power

The Houthi movement, formally known as Ansar Allah (Supporters of God), emerged in the 1990s as a revivalist movement among Yemen's Zaydi Shi'a population in the northern Saada governorate. Initially focused on religious and cultural issues, the movement evolved into an armed opposition following a series of conflicts

with the Yemeni government between 2004 and 2010, known as the Saada Wars (Lackner, 2019).

The Houthis' transformation into a major political and military force accelerated during and after Yemen's 2011 uprising, which was part of the broader Arab Spring. Taking advantage of the political transition and state weakness, the Houthis expanded their territorial control beyond Saada, eventually capturing the capital Sana'a in September 2014. By early 2015, the Houthis had forced President Abdrabbuh Mansur Hadi to flee, first to Aden and then to Saudi Arabia, and established control over much of northern Yemen including the most populous regions of the country (Eleftheriadou, 2021).

In March 2015, a coalition of Arab states led by Saudi Arabia and the United Arab Emirates launched a military intervention in Yemen with the stated goal of restoring the internationally recognized government of President Hadi. This intervention transformed what had been primarily an internal Yemeni conflict into an internationalized civil war with regional dimensions. The conflict has continued for over a decade, producing what the United Nations has characterized as the world's worst humanitarian crisis (UN OCHA, 2023).

5.2 Territorial control and de facto governance

The Houthis exercise de facto governmental authority over territories that encompass approximately 70% of Yemen's population, including the capital Sana'a and most of the northern and western regions of the country. Eleftheriadou (2021) characterizes the Houthis as the most developed "proto-state" among Yemen's fragmented political entities, exercising functions traditionally associated with sovereignty including:

- 1 **Security and Military Control:** The Houthis maintain organized armed forces estimated at 100,000–200,000 fighters, including conventional military units, tribal militias, and specialized forces. The group has absorbed elements of the former Yemeni military and security services, providing organizational capacity and access to advanced weapons systems (Lackner, 2019).
- 2 **Administrative Governance:** The Houthis have established administrative structures parallel to or replacing the recognized government, including ministries, local governance councils, and judicial institutions. These structures collect taxes, provide public services (to the extent possible given the humanitarian crisis), and regulate economic activity (Ahram, 2022).
- 3 **Economic Management:** Ahram (2022) provides detailed analysis of what he terms the Houthis' "rebel oil regime," showing how the group has constructed legal claims over state oil assets and manages economic resources including ports, customs revenues, and taxation. The Houthis control the critical port of Hodeidah (though under UN monitoring), which serves as the entry point for the majority of Yemen's commercial imports and humanitarian aid.
- 4 **Judicial Administration:** The Houthis operate courts and implement legal codes based on their interpretation of Zaydi Islamic law combined with elements of Yemeni statutory law. These courts adjudicate civil and criminal matters in territories under Houthi control.

- 5 External Relations: The Houthis engage in diplomatic communications with foreign governments and international organizations, negotiate agreements (including ceasefire arrangements), and manage relationships with external supporters, particularly Iran.

This comprehensive exercise of governmental functions distinguishes the Houthis from many other non-state armed groups and supports arguments that the group possesses a form of functional sovereignty or statehood, even absent international recognition. Mahdi (2023) frames this situation as a “sovereignty paradox”: external interventions by the United States, Gulf Cooperation Council (GCC) states, and the Saudi-led coalition have simultaneously violated Yemeni sovereignty and failed to restore the recognized government’s authority, creating space for the emergence of parallel sovereignties.

5.3 Military capabilities and cross-border operations

The Houthis have demonstrated sophisticated military capabilities that extend well beyond typical insurgent groups. These capabilities include:

- 1 Ballistic and Cruise Missiles: The Houthis possess and have used ballistic missiles and cruise missiles, some of which are believed to be supplied by Iran or manufactured locally with Iranian assistance. These weapons have been used to strike targets in Saudi Arabia and the United Arab Emirates, including civilian infrastructure, airports, and oil facilities (Fernandes, 2024).
- 2 Unmanned Aerial Vehicles (UAVs): The Houthis operate armed drones that have been used for reconnaissance, attacks on ground targets, and maritime operations. In September 2019, drone and missile attacks attributed to the Houthis (though claimed by them) struck Saudi Arabia’s Abqaiq and Khurais oil facilities, temporarily reducing Saudi oil production by approximately 50% (Munassar, 2025).
- 3 Anti-Ship Capabilities: The Houthis have demonstrated the capacity to threaten maritime traffic in the Red Sea and Bab el-Mandeb strait, using anti-ship missiles, armed drones, and waterborne improvised explosive devices. These capabilities have significant implications for international shipping and regional security (Fernandes, 2024).
- 4 Conventional Military Operations: Beyond asymmetric tactics, the Houthis have conducted conventional military operations including coordinated offensives involving infantry, armor, and artillery. Their capture of significant Yemeni military equipment and absorption of military personnel has enhanced their conventional capabilities.

The Houthis’ cross-border operations, particularly attacks on Saudi Arabia and maritime operations in the Red Sea, raise complex questions about the legal characterization of the conflict and the applicability of self-defense principles. Fernandes (2024) analyzes the legal implications of Houthi attacks on commercial and military vessels in the Red Sea beginning in November 2023, arguing that these attacks prompted lawful self-defense responses

by affected states but that the extension of such responses to strikes against inland Houthi targets raises difficult questions about self-defense against non-state actors and the legal status of de facto authorities.

5.4 The Red Sea crisis and international responses

Beginning in November 2023, the Houthis launched a campaign of attacks against commercial and military vessels in the Red Sea and Gulf of Aden, claiming these attacks were in support of Palestinians and in response to the Gaza conflict. These attacks included:

- Missile strikes against commercial vessels
- Armed drone attacks on ships
- Attempted hijackings of vessels
- Threats to ships associated with Israel or heading to Israeli ports

The attacks prompted significant international responses. The United States and United Kingdom launched airstrikes against Houthi military targets in Yemen in January 2024, justified as collective self-defense in response to attacks on international shipping. Several other states joined a maritime security operation, Operation Prosperity Guardian, to protect shipping in the Red Sea (Fernandes, 2024).

The Red Sea crisis raises several important legal questions:

- 1 Classification of Hostilities: Do the Houthi attacks on international shipping and the subsequent US/UK airstrikes constitute a separate armed conflict distinct from the ongoing conflict in Yemen? If so, how should this conflict be classified—as a NIAC, an IAC, or an internationalized NIAC?
- 2 Self-Defense Against NSAAs: To what extent does the right of self-defense under Article 51 of the UN Charter apply to armed attacks by non-state actors? Can states lawfully conduct strikes against NSAA targets in third countries (Yemen) in response to attacks on the high seas?
- 3 De Facto Authority: Should the Houthis’ exercise of de facto governmental authority over significant Yemeni territory affect the legal analysis? Fernandes (2024) suggests that sustained territorial control and governance functions may support treating the Houthis as a de facto authority for certain legal purposes, complicating the application of self-defense doctrine.
- 4 Proportionality and Necessity: Do the airstrikes against Houthi targets in Yemen satisfy the requirements of necessity and proportionality in self-defense? What is the relationship between defensive measures taken on the high seas against immediate threats and strikes against inland military infrastructure?

These questions reflect broader debates about the evolution of the jus ad bellum (law governing the use of force) in response to threats from powerful non-state actors. Traditional self-defense doctrine was developed primarily to address inter-state conflicts, and its application to situations involving NSAAs with de facto territorial control remains contested (De Souza, 2016).

5.5 IHL violations and humanitarian consequences

Both the Houthis and the Saudi-led coalition have been credibly accused of serious violations of IHL during the Yemen conflict. [Alquhaly et al. \(2024\)](#) document extensive violations by all parties, including:

Houthi Violations:

- Indiscriminate attacks on populated areas in Yemen
- Use of landmines and improvised explosive devices
- Recruitment and use of child soldiers
- Arbitrary detention and enforced disappearances
- Obstruction of humanitarian access
- Attacks on civilian infrastructure

Coalition Violations:

- Airstrikes on civilian objects including markets, hospitals, schools, and residential areas
- Use of cluster munitions in populated areas
- Blockade measures that restrict humanitarian access and commercial imports
- Attacks on infrastructure necessary for civilian survival

The humanitarian consequences of these violations have been catastrophic. The conflict has resulted in hundreds of thousands of deaths (both from direct violence and from indirect causes including disease and malnutrition), displacement of millions of people, destruction of infrastructure, and collapse of essential services. The UN has consistently characterized Yemen as facing the world's worst humanitarian crisis ([UN OCHA, 2023](#)).

From a legal accountability perspective, the Yemen conflict illustrates significant challenges:

- 1 **Attribution of Responsibility:** In a fragmented conflict involving multiple parties, determining responsibility for specific violations is often difficult. The Houthis, the internationally recognized government, the Saudi-led coalition, southern separatists, and various tribal and regional forces all exercise control over different territories and have been implicated in violations.
- 2 **Enforcement Mechanisms:** Despite extensive documentation of violations by UN panels of experts, human rights organizations, and civil society groups, there have been few consequences for perpetrators. No international criminal prosecutions have been initiated, and domestic accountability mechanisms are largely non-functional given the ongoing conflict.
- 3 **Humanitarian Access:** The parties' obstruction of humanitarian access—through bureaucratic restrictions, security threats, and attacks on aid workers—has severely limited the ability of humanitarian organizations to provide assistance and monitor compliance with IHL.
- 4 **Counter-Terrorism Designations:** The designation of the Houthis as a terrorist organization by some states (including the United States from 2021 to 2023 and again from 2024) has complicated humanitarian operations, as such designations can criminalize engagement necessary for humanitarian

access and create legal risks for organizations operating in Houthi-controlled areas ([Palama, 2022](#)).

6 Accountability mechanisms and compliance strategies

6.1 International responsibility of non-state armed groups

The question of whether and how non-state armed groups can bear international responsibility for violations of IHL has been extensively debated in legal scholarship. Traditional international law reserves international legal personality and responsibility primarily for states, but the functional realities of contemporary armed conflicts require recognizing that NSAAs can and do bear certain forms of international responsibility.

Analyze the international responsibility of NSAAs and the possible reparations owed by such entities. They argue that functional organs of NSAAs can ground responsibility and reparation claims, drawing on the principle that entities exercising governmental functions should bear corresponding obligations. This functional approach suggests that groups like Hezbollah and the Houthis, which exercise extensive governance functions and control territory, can be held internationally responsible for their violations of IHL.

The legal basis for NSAA responsibility includes:

- 1 **Direct Obligations Under IHL:** As discussed in Section 3, NSAAs are directly bound by Common Article 3 and customary IHL. Violations of these obligations constitute breaches of international law for which the group bears responsibility.
- 2 **Customary International Law:** The principle that violations of IHL give rise to obligations to provide reparations (including compensation, restitution, and rehabilitation) is increasingly recognized as applicable to NSAAs, at least when they exercise significant governmental functions.
- 3 **Special Agreements:** When NSAAs enter into special agreements with states or international organizations (such as ceasefire agreements or humanitarian access arrangements), they undertake obligations that can ground responsibility for breaches.

However, significant practical challenges limit the enforcement of NSAA responsibility:

- 1 **Lack of Assets:** NSAAs typically lack the financial resources and accessible assets that would enable enforcement of reparations obligations. While some groups (including Hezbollah and the Houthis) control economic resources, these are often difficult for external actors to access or seize.
- 2 **Non-Recognition:** States' refusal to recognize NSAAs as legal entities can create obstacles to holding them accountable through international mechanisms, as such mechanisms often require legal personality.
- 3 **Ongoing Conflict:** During active armed conflicts, enforcing accountability against NSAAs is extremely difficult. Accountability measures typically become feasible only after

conflicts end or when groups transition to recognized political actors.

6.2 Individual criminal responsibility

An alternative or complementary approach to accountability focuses on individual criminal responsibility for IHL violations. Under international criminal law, individuals—whether members of state armed forces or non-state armed groups—can be prosecuted for war crimes, crimes against humanity, and genocide.

Edo (2021) documents how individuals from armed groups can bear criminal liability for IHL violations and that domestic and international prosecutions provide mechanisms of accountability. The Rome Statute of the International Criminal Court (ICC) criminalizes war crimes committed in both IACs and NIACs, including violations of Common Article 3 and other serious violations of IHL (Rome Statute of the International Criminal Court, 1998, Article 8).

Key principles of individual criminal responsibility include:

- 1 **Direct Perpetration:** Individuals who directly commit war crimes or crimes against humanity bear criminal responsibility regardless of their affiliation or rank.
- 2 **Command Responsibility:** Military commanders and civilian superiors bear responsibility for crimes committed by subordinates if they knew or should have known about the crimes and failed to prevent them or punish perpetrators (Rome Statute, Article 28).
- 3 **Ordering, Planning, or Instigating:** Individuals who order, plan, or instigate the commission of crimes bear responsibility even if they do not directly participate in the acts.
- 4 **Aiding and Abetting:** Individuals who knowingly provide substantial assistance to the commission of crimes can be held criminally responsible.

Application of individual criminal responsibility to members of NSAAs faces several challenges:

- 1 **Jurisdiction:** The ICC has jurisdiction only over crimes committed on the territory of states parties or by nationals of states parties (unless the UN Security Council refers a situation). Neither Lebanon nor Yemen is a party to the Rome Statute, limiting the ICC's jurisdiction over crimes committed in those conflicts absent a Security Council referral.
- 2 **Evidence:** Gathering evidence sufficient to prove individual criminal responsibility beyond a reasonable doubt is extremely difficult in ongoing armed conflicts, particularly in territories controlled by NSAAs.
- 3 **Access to Suspects:** Arresting suspects from NSAAs requires either their capture by opposing forces or cooperation from the states where they reside. Given that Hezbollah and the Houthis control territory and enjoy support from their respective populations and external backers, arresting their members for prosecution is highly unlikely absent major shifts in the conflicts.
- 4 **Political Will:** International criminal prosecutions require significant political will and resources. The selective application of international criminal justice—with some conflicts receiving extensive attention while others are ignored—raises questions about consistency and fairness.

Despite these challenges, individual criminal responsibility remains an important accountability mechanism. Even if prosecutions are not immediately feasible, documenting violations and identifying perpetrators can support future accountability efforts and may have deterrent effects.

6.3 Engagement and compliance strategies

Given the limitations of traditional accountability mechanisms, scholars and practitioners have increasingly emphasized engagement with NSAAs as a strategy for improving IHL compliance. Bellal (2018) provides a comprehensive framework for such engagement, arguing that humanitarian dialogue with armed groups can promote respect for IHL without conferring political legitimacy on the groups.

Key elements of engagement strategies include:

- 1 **Humanitarian Dialogue:** Establishing channels of communication between humanitarian organizations (particularly the ICRC) and NSAAs to discuss IHL obligations, address specific concerns, and negotiate access to affected populations. Such dialogue is explicitly encouraged by Common Article 3.
- 2 **Capacity Building:** Providing training and resources to NSAAs to enhance their understanding of IHL and their capacity to implement it. This may include training on the principles of distinction and proportionality, proper treatment of detainees, and protection of civilians.
- 3 **Monitoring and Reporting:** Systematic documentation of IHL violations by all parties to a conflict, with public reporting that creates pressure for compliance. Such monitoring must be impartial and credible to be effective.
- 4 **Incentive Structures:** Creating incentives for IHL compliance through various means, including:

- Making humanitarian assistance conditional on respect for humanitarian principles
- Linking political recognition or legitimacy to IHL compliance
- Offering to remove or reduce sanctions in exchange for verifiable improvements in conduct
- Facilitating transitions to political processes for groups that demonstrate respect for IHL

- 1 **Internal Codes of Conduct:** Encouraging NSAAs to develop and implement internal codes of conduct that incorporate IHL principles. Some NSAAs, including certain factions in Syria and elsewhere, have issued such codes, though their implementation varies widely.
- 2 **Leveraging External Supporters:** Engaging states or other actors that provide support to NSAAs to use their influence to promote IHL compliance. For example, Iran's influence over Hezbollah and the Houthis could potentially be leveraged to improve these groups' respect for IHL.

Bellal (2018) emphasizes that engagement strategies must be carefully designed to avoid conferring unintended legitimacy on NSAAs while remaining focused on humanitarian objectives. The distinction between humanitarian engagement (which is legally and ethically

appropriate) and political recognition (which states may wish to withhold) must be maintained.

6.4 The challenge of counter-terrorism designations

The designation of NSAAs as terrorist organizations by various states creates significant obstacles to both humanitarian engagement and accountability efforts. Palama (2022) analyzes how anti-terrorism legislation, particularly US laws, can impede provision of medical care in territories controlled by proscribed groups by criminalizing assistance to designated organizations.

Counter-terrorism designations create several problems:

- 1 **Criminalization of Humanitarian Action:** When an NSAA is designated as a terrorist organization, providing any form of assistance to the group—including humanitarian aid, medical care, or even dialogue—may be criminalized under domestic counter-terrorism laws. This creates legal risks for humanitarian organizations and can prevent them from fulfilling IHL obligations to provide impartial humanitarian assistance.
- 2 **Barriers to Engagement:** Counter-terrorism designations make it difficult or impossible for states and international organizations to engage with NSAAs, even for legitimate humanitarian purposes such as negotiating access, discussing IHL compliance, or arranging prisoner exchanges.
- 3 **Financial Restrictions:** Designations typically include asset freezes and prohibitions on financial transactions with designated entities. These measures can prevent humanitarian organizations from paying salaries, purchasing supplies, or conducting other necessary financial transactions in territories controlled by designated groups.
- 4 **Inconsistency with IHL:** IHL is based on the principle of impartiality and requires that humanitarian assistance be provided to all persons in need regardless of their affiliation. Counter-terrorism designations that prevent assistance to populations in territories controlled by designated groups are inconsistent with this fundamental IHL principle.

Several approaches have been proposed to address these tensions:

- 1 **Humanitarian Exemptions:** Incorporating explicit exemptions into counter-terrorism laws for impartial humanitarian activities conducted in accordance with IHL. Some states have adopted such exemptions, but they vary in scope and clarity.
- 2 **Distinction Between Group and Individuals:** Distinguishing between the designated organization as an entity and individuals or populations in territories it controls. Humanitarian assistance to affected populations should not be considered support for the designated group.
- 3 **Licensing Mechanisms:** Establishing licensing or authorization procedures that allow humanitarian organizations to conduct activities in territories controlled by designated groups without violating counter-terrorism laws.
- 4 **International Coordination:** Harmonizing counter-terrorism designations and exemptions internationally to reduce legal uncertainty and ensure that humanitarian organizations can operate across borders.

The tension between counter-terrorism imperatives and humanitarian principles remains one of the most significant practical challenges in contemporary armed conflicts involving NSAAs.

7 Synthesis and implications for international law and policy

7.1 Functional legal personality and the erosion of exclusive sovereignty

This paper finds that the rise of powerful, territorially-based Non-State Armed Actors (NSAAs) like Hezbollah and the Houthis compels a fundamental reassessment of traditional international legal categories. These groups possess a definitive form of functional legal personality, a status derived not from formal state recognition but from their demonstrable capacity to act as responsible parties in the international system. This functional personality emerges from four key pillars: the exercise of comprehensive governmental functions, the capacity to undertake binding international obligations (e.g., ceasefire and humanitarian agreements), the proven ability to conduct sustained and organized military operations that meet IHL thresholds, and effective control over defined territories and populations. While this legal personality is limited and relative—lacking the full immunities and rights of statehood—it is sufficient to enforce obligations under International Humanitarian Law (IHL), mandate humanitarian engagement, and provide a basis for international accountability.

This paper argues that the existence of such actors fundamentally challenges the Westphalian model, which relies on the assumptions of exclusive state sovereignty, a state monopoly on legitimate violence, and the subordination of all sub-state actors. In Lebanon and Yemen, the reality is one of hybrid or parallel sovereignties, where NSAAs exercise governance and military capabilities that rival or exceed those of the recognized state. As neither recognized state possesses exclusive sovereignty or a monopoly on violence, the international system is compelled to contend with actors that exhibit the practical attributes of proto-states. Utilizing frameworks such as relative legal personality and hybrid sovereignty, this paper concludes that the challenge posed by these powerful NSAAs is not a temporary anomaly but reflects a structural transformation of the international system. Legal and policy responses must move beyond the aspiration of a return to absolute Westphalian sovereignty and instead account for this post-Westphalian reality.

7.2 Legal implications for IHL and accountability

The structural shift outlined above carries significant implications for IHL and the Law of Armed Conflict (LOAC). This paper finds that the hybrid nature of conflicts involving powerful NSAAs complicates traditional legal classifications. While these conflicts often begin as Non-International Armed Conflicts (NIACs), the quasi-state characteristics of groups like the Houthis and Hezbollah, combined with external intervention and cross-border operations, demand greater clarity on how to classify and regulate such hybrid dynamics under existing law. The law would benefit from either a formal re-evaluation of the now-disused doctrine of belligerency—not for political

legitimation, but to provide a clear legal framework for recognizing the status of powerful, organized groups for the sole purposes of regulation and accountability—or the development of an analogous status.

This paper concludes that the existing mechanisms for enforcing accountability are inadequate for powerful NSAs. Accountability must be pursued through several non-traditional approaches. First, the provision in Common Article 3 of the Geneva Conventions encouraging special agreements between parties to NIACs must be utilized more extensively, with international organizations actively facilitating such agreements to clarify IHL obligations and enhance civilian protections. Second, accountability must be enhanced through comprehensive and independent monitoring and documentation of IHL violations, providing the evidentiary foundation for individual criminal responsibility through both domestic and international courts. Third, robust engagement strategies are necessary to create genuine incentives for NSAA compliance, often by leveraging the influence of external state supporters who provide them with resources and political backing.

7.3 Policy adaptation and the engagement imperative

Given the persistence of powerful NSAs and the limits of traditional state-centric enforcement, this paper recommends a crucial shift in policy. The cornerstone of this shift must be the engagement imperative. This requires the international community, particularly States, to draw a clear line between humanitarian engagement and political recognition. States must pragmatically recognize that humanitarian dialogue with NSAs is necessary for protecting civilians, promoting IHL compliance, and facilitating aid access, and does not constitute endorsement of their political goals.

Therefore, this paper recommends that states immediately adopt clear humanitarian exemptions into counter-terrorism laws to ensure that impartial assistance can be delivered to all affected populations without criminalizing humanitarian workers. Furthermore, States that provide support to NSAs must use their considerable influence to promote IHL compliance, making adherence a prerequisite for continued material or political backing. For International Organizations and humanitarian actors, this paper recommends enhancing accountability mechanisms specifically designed for non-state actors, including supporting specialized commissions of inquiry and facilitating mechanisms for reparations. Finally, for the NSAs themselves, this paper recommends the development and implementation of rigorous internal codes of conduct and disciplinary mechanisms that demonstrably incorporate IHL principles. Only through the pragmatic recognition of their functional legal status and the development of targeted, functional frameworks for engagement and accountability can the international order effectively mitigate the humanitarian and security challenges posed by these defining actors of the post-Westphalian world.

7.4 The proxy dimension: attribution and state responsibility

The analysis of Hezbollah and the Houthis is incomplete without considering their roles as ‘proxies’ within broader regional power dynamics. From a legal perspective, this raises the complex issue of attribution. Under the International Law Commission’s (ILC) Articles on State Responsibility, the actions of an NSAA can be attributed to a patron state

if that state exercises ‘effective control’ (as established in the *Nicaragua* case) or ‘overall control’ (as established in the *Tadić* case) over the group. While Hezbollah and the Houthis maintain significant domestic autonomy, their strategic alignment with external patrons complicates their legal personality. They are simultaneously local governors and instruments of regional foreign policy. This dual nature means that international legal frameworks must not only hold the groups accountable but also refine the criteria for ‘state responsibility’ to prevent patron states from using NSAs as shields against legal liability.

8 Conclusion

This article has examined the profound challenges that powerful non-state armed actors—specifically Hezbollah in Lebanon and the Houthis in Yemen—pose to the international legal system and the traditional Westphalian concept of state sovereignty. Through comparative analysis, the study demonstrated that these groups possess a form of functional legal personality that emerges from their exercise of governmental functions, sustained military operations, and capacity to enter into binding agreements. The central finding is that both Hezbollah and the Houthis possess a limited, functional international legal personality under International Humanitarian Law (IHL) and the Law of Armed Conflict (LOAC). While they lack the full attributes of statehood, they bear direct obligations under Common Article 3 and customary IHL, possess the capacity to enter into special agreements, and can be held accountable for violations of international law. Their exercise of comprehensive governance functions, control of territory and populations, and maintenance of military capabilities fundamentally challenge the Westphalian model of exclusive state sovereignty. The resulting hybrid or parallel sovereignties represent a structural transformation of the international system rather than temporary anomalies.

In terms of conflict governance, the research confirms that IHL applies fully to these Non-State Armed Actors (NSAs) as parties to armed conflicts, creating binding obligations regardless of their political characterization or designation as terrorist organizations. However, the application of IHL to such hybrid conflicts raises complex questions about classification, belligerency, and the interplay between Non-International Armed Conflict (NIAC) and International Armed Conflict (IAC) frameworks. Crucially, traditional accountability mechanisms designed for states are proving inadequate for powerful NSAs. Effective accountability therefore requires a multi-pronged approach, including robust individual criminal responsibility, development of new monitoring and documentation systems, leveraging the influence of external state supporters, and creating new mechanisms specifically designed for non-state actors that incentivize IHL compliance. This necessitates an engagement imperative: humanitarian access and the protection of civilians require dealing with all parties to conflicts, including designated terrorist organizations. Such engagement must be rigorously distinguished from political recognition and should be facilitated rather than obstructed by counter-terrorism laws. Moreover, the frameworks and conclusions developed here are not unique to the Middle East, as they have broader applicability to similar powerful NSAs in other regions, including the Taliban in Afghanistan, Al-Shabaab in Somalia, and various armed groups in Syria.

Several areas warrant further research to deepen the understanding of this evolving legal and political landscape. Future work should

include comparative analysis of other powerful NSAs (e.g., Al-Shabaab, ISIS remnants) to test and refine the functional personality framework. Critical examination is needed into transitional justice mechanisms for powerful NSAs that successfully transition to recognized political actors, such as the Taliban's return to power in Afghanistan, focusing on balancing past violations with integration into governance structures. Furthermore, dedicated research is required on the economic dimensions of control (e.g., oil, ports, taxation), the distinct gender dimensions of conflicts involving these groups, and the applicability of IHL's environmental protection rules to their actions and accountability for environmental damage. Given the increasing sophistication of modern warfare, the application of IHL to cyber operations conducted by NSAs and a comparative analysis of regional variations remain vital avenues for scholarly inquiry.

The rise of powerful non-state armed actors like Hezbollah and the Houthis reflects profound transformations in international politics driven by state fragility, proxy warfare, and the diffusion of military technology. These realities challenge not only traditional legal categories but also fundamental assumptions about political order and legitimacy. The international community must choose between adapting its legal and policy frameworks to account for the reality of powerful NSAs and developing effective mechanisms for their regulation and accountability, or maintaining a rigid adherence to state-centric structures that increasingly fail to address contemporary challenges. This article advocates for the former: pragmatic acknowledgment of the functional legal personality of powerful NSAs and engagement with them for humanitarian purposes, while simultaneously maintaining rigorous accountability for violations. Such a stance is not an endorsement of their political goals, but a necessary recognition that the effective protection of civilians and the maintenance of a rules-based international order depend on dealing with the actors who actually exercise power and control, regardless of their formal legal status. The limits of law in this post-Westphalian world are real, but IHL remains binding on all parties; the challenge is to build implementation and enforcement mechanisms that reflect contemporary realities and uphold fundamental humanitarian principles.

Author contributions

KK: Conceptualization, Data curation, Formal analysis, Funding acquisition, Investigation, Methodology, Project administration,

Resources, Software, Supervision, Validation, Visualization, Writing – original draft, Writing – review & editing.

Funding

The author(s) declared that financial support was not received for this work and/or its publication.

Conflict of interest

The author(s) declared that this work was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

Generative AI statement

The author(s) declared that Generative AI was used in the creation of this manuscript. The author acknowledges the use of ChatGPT (OpenAI) to refine academic language and improve readability and references. The tool was not used to draft substantive content. All research design, data interpretation, and final writing were conducted and verified solely by the authors.

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References

- Ahram, A. I. (2022). Rebel oil regimes: the political economy of extraterritorial authority in Yemen. *Comp. Polit.* 54, 445–465. doi: 10.1080/14678802.2022.2155799
- Alquhaly, H. Y. H., Basir, S. M., and Al-hameli, B. A. (2024). Yemen's crisis: international responsibility of the parties to the armed conflict. *JUUM*, 34.
- Aoun, E. (2019). Fuses set but Hezbollah not lighting the match: the dominant political actor in Lebanon limiting the risk of large-scale political war. *Mediterr. Polit.* 24, 185–204. Available online at: <https://dash.harvard.edu/entities/publication/87642f1a-f994-4341-a43f-109ceb90d82>
- Bellal, A. (2018). "Welcome on board: improving respect for international humanitarian law through the engagement of armed non-state actors," In *Yearbook of International Humanitarian Law*. The Hague: TMC Asser Press, 19, 37–61.
- De Souza, I. L. (2016). Revisiting the Right of Self-Defence against Non-State Armed Entities. *Canadian Yearbook of International Law/Annuaire canadien de droit international*, 53, 202–243.
- Diniz, E., and Proença Júnior, D. (2015). The collapse of the material foundations of Westphalian international law. *Rev. Sociol. Polit.* 23, 13–37. doi: 10.1590/1678-987315235402
- Dinstein, Y. (2014). *Non-international armed conflicts in international law*: Cambridge University Press.
- Edo, C. (2021). Individual criminal liability for violations of international law committed during non-armed conflict. *SSRN Electron. J.* doi: 10.2139/ssrn.3971293
- Eleftheriadou, M. (2021). Non-state armed actors and contested sovereignties in internationalized civil wars: the case of Yemen's civil war (2015-). *Int. Polit.* 58, 906–923. doi: 10.1057/s41311-020-00267-3
- Fernandes, M. J. (2024). State's reactions to attacks by Houthis as a testbed for the use of force against non-State actors. e-Publica, 11.
- Gaggioli, G. (2018) Targeting individuals belonging to an armed group Vanderbilt J. Transnatl. Law 51:901. Available online at: <https://scholarship.law.vanderbilt.edu/vjtl/vol51/iss1/1>

- Geneva Conventions (1949). *Geneva Conventions of 12 August 1949*. Geneva: International Committee of the Red Cross.
- Hazbun, W. (2016). Assembling security in a 'weak state': the contentious politics of plural governance in Lebanon since 2005. *Third World Q.* 37, 1053–1070. doi: 10.1080/01436597.2015.1110016
- Hiemstra, H., and Nohle, E. (2019). "The role of non-state armed groups in the development and interpretation of international humanitarian law," in *International humanitarian law and non-state actors* (The Hague: Springer), 3–26.
- Hoffman, F. G. (2007). *Conflict in the 21st century: The rise of hybrid wars*. Vergina: Potomac Institute for Policy Studies.
- Human Rights Watch. (2007). *Civilians under assault: Hezbollah's rocket attacks on Israel in the 2006 war*. New York: Human Rights Watch.
- Human Rights Watch (2014). *"He didn't have to die": indiscriminate attacks by opposition groups in Syria*. New York: Human Rights Watch.
- ICRC (2006). *Lebanon/Israel: ICRC calls for immediate cessation of hostilities*. Geneva: International Committee of the Red Cross.
- ICRC (2011). *International humanitarian law and the challenges of contemporary armed conflicts*. Geneva: International Committee of the Red Cross.
- International Criminal Tribunal for the former Yugoslavia (1995) Prosecutor v. Tadić, Case No. IT-94-1-I, Decision on Defence Motion for Interlocutory Appeal on Jurisdiction. Available online at: <https://www.icty.org/en/case/tadic/4>
- International Law Commission (2001) Draft articles on responsibility of states for internationally wrongful acts. Geneva.
- Khatib, L. (2025). Hezbollah's state capture in Lebanon. *Small Wars Insurg.* 36, 637–658. doi: 10.1080/09592318.2025.2477338
- Khwaileh, K. M. (2025). Historical context of international trade in the Arab region. *Soc. Sci. Humanit. Open* 12:102120. doi: 10.1016/j.ssaho.2025.102120
- Krasner, S. D. (1999). *Sovereignty: organized hypocrisy*. New Jersey: Princeton University Press.
- Lackner, H. (2019). *Yemen in crisis: the road to war*. London: Verso Books.
- Mahdi, W. (2023). "Sovereignty for security: the paradox of urgency and intervention in Yemen," in *The Sovereignty Paradox in the Middle East* (Edinburgh: Edinburgh University Press), 147–168.
- Manfredi Firmian, F. (2024). When Militias capture the state: evidence from Lebanon, Iraq, and Sudan. *Small Wars Insur.* 35, 1–26.
- Meier, D. (2018). Hizbullah's shaping Lebanon statehood. *Small Wars Insurg.* 29, 393–415. doi: 10.1080/09592318.2018.1455321
- Munassar, O. (2025). Rethinking GCC security: lessons from the Saudi-led coalition's intervention in Yemen. *Alternatives* 50, 3–22. doi: 10.1177/03043754251370456
- Murray, D. (2015). How international humanitarian law treaties bind non-state armed groups. *J. Conflict Secur. Law* 20, 101–132. doi: 10.1093/jcsl/kru010
- Palama, A. (2022). "Impact of US anti-terrorism legislation on the obligation of non-state armed groups to provide medical care to the wounded and sick under IHL," In: *Health Care in Contexts of Risk, Uncertainty, and Hybridity. Military and Humanitarian Health Ethics*. Messelken, D., and Winkler, D. (eds) (Cham: Springer) 81–106. doi: 10.1007/978-3-030-80443-5_4
- Ramadan, A., and Fregonese, S. (2017). Hybrid sovereignty and the state of exception in the Palestinian refugee camps in Lebanon. *Polit. Geogr.* 60, 232–242. doi: 10.1016/j.polgeo.2017.07.005
- Rizkallah, A. (2017). Non-state actors and the security of small states: the case of Hezbollah in Lebanon. *Contemp. Secur. Policy* 38, 451–474. doi: 10.1353/jsa.2017.0016
- Rome Statute of the International Criminal Court (1998). *Rome statute of the international criminal court*. New York: United Nations.
- Samaan, J. L. (2017). Missile warfare and violent non-state actors: the case of Hezbollah. *Def. Stud.* 17, 379–395. doi: 10.1080/14702436.2017.1295788
- Selim, G. M. (2023). The Arab league and the crisis of Westphalian sovereignty in the Arab world after 2011. *J. Contemp. Iraq Arab World* 17, 241–260. doi: 10.1386/jciaaw_00107_1
- Sivakumaran, S. (2015). "The addressees of common article 3," in *The law of non-international armed conflict* (Oxford, UK: Oxford University Press), 241–268.
- Taman, D. I., and El-Enany, M. S. (2022). A new Westphalia in MENA after the Arab revolutions. *Middle East Policy* 29, 145–162. doi: 10.1111/mepo.12650
- UN OCHA. (2023). *Yemen humanitarian needs overview 2023*. New York: United Nations Office for the Coordination of Humanitarian Affairs.
- Worster, W. T. (2015). Relative international legal personality of non-state actors. *Brooklyn J. Int. Law* 42, 207–274. Available online at: http://brooklynworks.brooklaw.edu/bjil/vol42/iss1/4?utm_source=brooklynworks.brooklaw.edu%2Fbjil%2Fvol42%2Fiss1%2F4&utm_medium=PDF&utm_campaign=PDFCoverPages