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The UAE in Sudan

When Does Support Become Involvement?

— Since 15 April 2023, Sudan has experienced renewed hostilities, rooted in patterns of violence originating in the early twenty-first century. The current hostilities have quickly escalated into some of the most severe conflicts in recent years. The resurgence of violence in Sudan prompts critical questions regarding the classification of conflict under international humanitarian law (IHL), particularly whether sustained external involvement can transform a non-international armed conflict (NIAC) into an international armed conflict (IAC).

The Sudanese Armed Forces (SAF), led by General Abdel Fattah al-Burhan, represent the *de facto* state military apparatus. In opposition, the Rapid Support Forces (RSF), a paramilitary organization commanded by General Mohamed Hamdan Dagalo, also known as “Hemedti,” challenge the SAF. The RSF evolved from the Janjaweed militias in 2013. The Janjaweed were primarily used by Omar al Bashir in the early 2000s to fight against rebel groups in the Darfur area.

However, the conflict has also increasingly become a theater for broader geopolitical interests. In particular, the United Arab Emirates (UAE) and Saudi Arabia have demonstrated a growing strategic interest in Sudan, driven by considerations of regional influence, control over key ports and maritime corridors along the Red Sea, and access to Sudan’s substantial natural resources, most notably its gold reserves.

The involvement of the UAE extends beyond indirect political or economic engagement. Available reports (more here, here) indicate that the UAE has provided direct support to one of the parties to the conflict, the RSF. This external backing has led some observers to characterize the conflict as a form of proxy warfare. From the perspective of IHL, such involvement raises a distinct legal question: whether the armed conflict in Sudan continues to qualify as a NIAC, or whether the degree of external state involvement has reached a threshold at which the conflict must be regarded as international, or as an internationalized non-international armed conflict.

When Is a Conflict a NIAC or IAC?

An IAC exists whenever hostilities arise between two sovereign states (Article 2 Geneva Conventions I-IV 1949). A NIAC, on the other hand, may occur where a state engages in hostilities against a non-state actor. International law does not provide a universal definition of NIACs. Nevertheless, treaty law has set various thresholds for when it applies to such conflicts.

The legal classification of an armed conflict is decisive in determining the applicable body of IHL, as the breadth and density of the relevant norms depend primarily on whether the conflict is international or non-international. In the case of IACs, the full regime of the four Geneva Conventions of 1949 and, subject to ratification, Additional Protocol I applies.

In NIACs, by contrast, the applicable treaty framework is considerably more limited (Henckaerts, 178), operating in two successive layers. At a minimum, Common Article 3 of the Geneva Conventions applies to all “armed conflicts not of an international character” and prohibits, inter alia, murder, torture, hostage-taking, and cruel or degrading treatment (see also ICJ Nicaragua,

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1986, para. 218). Common Article 3 itself, however, does not define the threshold at which a situation qualifies as a NIAC. This gap was addressed in the jurisprudence of the International Criminal Tribunal for the former Yugoslavia (ICTY), which held in *Tadić* that such a conflict exists where hostilities are protracted and the non-state armed group involved exhibits a sufficient degree of organization (para. 70). Situations of mere internal disturbances or tensions therefore fall outside its scope.

Beyond this minimum standard, the more detailed rules of Additional Protocol II may apply. Pursuant to Article 1(2) of Additional Protocol II, its provisions are limited to a narrower category of NIACs that not only exceed the threshold of internal disturbances but also require, on the one hand, the armed forces of a state and, on the other, an organized non-state armed group exercising control over part of the territory (ICRC Commentary, paras. 4463-4464; see also Bradley, 1129). As a result, Additional Protocol II does not apply to hostilities conducted exclusively between non-state armed groups, since at least one party to the conflict must be a state bound by the Protocol. The dogmatic relevance of these questions is particularly evident in cases where third states intervene in internal conflicts. The type of conflict ultimately determines whether the full protection regime of IHL (IAC) applies or only a reduced minimum standard (NIAC). For example, in NIACs, captured persons do not enjoy prisoner-of-war status, as Article 4 GC III applies only to IACs. Similarly, the law of occupation under GC IV and the Hague Regulations presupposes an IAC. Thus, the question of the possible internationalization of NIACs touches on the core of the normative protection architecture of IHL.

Is There a Third Category?

How should IHL respond when a third state becomes involved in an otherwise NIAC? In the Sudanese context, the hostilities are primarily fought between the SAF and the RSF, a paramilitary group that qualifies as a non-state armed actor. The intensity of the fighting has clearly exceeded mere internal disturbances and tensions, given the sustained use of military force by the SAF. Moreover, the RSF display a sufficient degree of organization. The conflict, therefore, fulfils the criteria of a NIAC within the meaning of Additional Protocol II.

The legal assessment becomes more complex once a third state is involved. Allegations of support by the UAE raise the question of whether such external involvement alters the legal qualification of the conflict. Before turning to the specific factual circumstances of the Sudanese case, it is therefore necessary to outline the relevant doctrinal standards governing the internationalization of NIACs.

The internationalization of a NIAC does not constitute an independent category of armed conflict. Instead, it results from a legal attribution of conduct that effectively renders a third state a party to hostilities. The applicable doctrinal standards for such attribution have been developed primarily in the jurisprudence of the International Court of Justice (ICJ) in the Nicaragua case and the ICTY in the Tadić case.

In Nicaragua, the ICJ was not concerned with the classification of the conflict, but with the attribution of acts committed by a non-state armed group (NSAG) to a third state (Cassese, 652).

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The central issue was whether, and under what conditions, the conduct of the NSAG could be attributed to the United States as its own state action. To that end, the Court articulated the so-called “effective control test”, which sets a particularly high threshold for attribution (Nicaragua paras. 105–115).

According to the ICJ, attribution requires that the supporting state actively directs or enforces the *specific* acts of non-state actors that violate international law. The third state must have either issued specific instructions to commit the acts in question or at least effectively controlled each relevant individual operation. Mere financial, logistical, or military support—even if it is substantial—is therefore not sufficient for attribution (Nicaragua, para. 115). The Court confirmed this strict standard in later case law without further specifying it dogmatically.

It is precisely this line of argument that has been met with considerable criticism in international law literature. In particular, some commentators criticized the Court, because it did not systematically derive the chosen standard of attribution from consistent state practice or other international law authorities (Cassese, 653). This dogmatic weakness of the effective control test serves as a starting point for the later development of alternative approaches to attribution in the debate over the internationalization of NIACs.

In contrast to the Nicaragua proceedings, the ICTY had to decide in the Tadić case on the qualification of the conflict itself, specifically whether the armed conflict in Bosnia and Herzegovina was to be classified as a NIAC or an IAC. The focus was therefore not on individual acts contrary to international law, but on the preliminary question of whether an armed group was to be regarded as “belonging” to a party to the conflict within the meaning of Article 4(A)(2) GC III (Tadic Appeal, para. 92).

To interpret this element of the offense, the ICTY drew on the general rules of state responsibility to derive standards for the attribution of acts of non-state actors who, without formal status as state organs, act on behalf of or in the interests of a state (Cassese, 656). The Court clarified that attribution generally requires an element of state control but distinguished between different degrees of its intensity. While a strict standard of attribution may apply to individual private persons, a less rigorous standard is sufficient for organized armed groups (Cassese, 657).

For such groups, it is sufficient for the state to exercise overall control over the organization; it is not necessary to control each individual military operation through specific instructions (Tadic Appeal, para. 120). Such “overall control” was understood to extend beyond the mere provision of arms, funding, training, or logistical assistance, but to encompass the coordination of, or participation in the broader planning and direction of the group’s military or paramilitary operations (Tadic Appeal, para. 131). With this lowering of the attribution threshold, the ICTY developed an independent dogmatic approach to the internationalization of originally internal armed conflicts.

In the later Bosnia and Herzegovina v. Serbia and Montenegro case, the ICJ confirmed that the ICTY’s overall control test was sufficient to determine whether the conflict was NIAC or IAC (paras. 404-406). The literature also supports this view which is now generally considered undisputed (ICRC; Cassese, Bartels). However, to attribute a conduct of a NSAG to another state,

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the ICJ still uses the effective control test ([ICJ](#), para. 406), without clarifying how these two tests could work together ([ICRC Commentary](#), para. 305).

Situation in Sudan

Looking at the available media and investigative reports on the UAE's support for the RSF, the picture so far is ambiguous. According to these reports, the RSF has been supported by arms deliveries and substantial financial resources from the UAE ([Ali](#), 10). For example, on the night of 9 March 2025, the RSF attacked SAF targets in North Darfur. Thirteen people died. [Amnesty International](#) found evidence of bombs carried by Chinese drones that were provided by the UAE. There is further evidence that French and British weapons were imported from the UAE, and that weapons may first be diverted to Chad and subsequently smuggled overland into Sudan. Although such support already violates existing arms embargoes, according to the *overall control* doctrine, it is not, in itself, sufficient to qualify the Sudanese conflict as an IAC. However, more recent reports (also [here](#) and [here](#)), highlighting that multiple passports belonging to citizens of the UAE were seized in the contested area of Omdurman (close to Sudan's capital Khartoum), are of greater significance. According to media reports (also [here](#)), the holders of these passports may be members of Emirati intelligence services; corresponding information was reportedly also presented to the United Nations Security Council. If it were to be confirmed that Emirati officers were directly involved in combat operations or in operational decision-making, this would go beyond mere support. In such a scenario, there would be strong indications that the threshold for the overall control test is met, leading to the internationalization of the conflict. Such a qualification would have significant legal consequences. In particular, the whole regime of IHL and war crimes under international criminal law would apply. In addition, a further question would arise as to whether certain actions of the RSF (e.g. those in Omdurman) could be attributed to the UAE under the stricter *effective control* standard required by the ICJ ([para. 406](#)). At present, conclusive evidence demonstrating the requisite level of operational control has yet to be established.

Conclusion

This post has shown that the dogmatic question of the internationalization of NIACs is also central to present-day conflicts. The Sudanese conflict, which is already one of the most brutal conflicts of the twenty-first century, could undergo a legal reassessment if the indications presented here are confirmed. If it were to be proven that a third state has become a party to the conflict through direct operational control or active participation, this would have far-reaching consequences for applicable law, the scope of protection obligations, and international criminal liability. The further development of the evidence will therefore be of crucial importance not only politically but also under international law.

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