General Assembly 1 - International Security and Disarmament

The question of national sovereignty and asymmetric warfare

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Forum:	General Assembly 1 - International Security and Disarmament
Issue:	The question of national sovereignty and asymmetric warfare
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Introduction

The Charter of the United Nations (UN) states in article 2 that the organisation is based upon "the principle of the sovereign equality of all its members," and demands that no member state violates the territorial integrity of another member state[1]. Unfortunately, this keystone principle of the UN Charter has frequently been used by non-state actors, which include terrorists, militias, and insurgents, to avoid capture as they cross national boundaries. Consequently, internal conflicts can quickly become an issue in entire regions, which can then lead to geopolitical destabilization of the area, and protracting an international conflict. Examples of such occurrences include the Lord's Resistance Army in 2005 and 2006. The Ugandan rebel group moved from Uganda to commit atrocity crimes in the region, including territories of the Democratic Republic of Congo, Central African Republic, and the region that would later be known as South Sudan. The international community is increasingly faced with a significant challenge to the principle of national sovereignty and territorial integrity, and there have been nations that have called for revision of these norms.

In order to combat these tactics used by non-state actors, nations have invoked the "right of hot pursuit," which entails that nations have the right to continue the pursuance of criminals that have left the national territory of the respective nation in which the pursuit begun, to validate the consequential violations of other nation's sovereignty in the confrontation with non-state actors. An issue is that currently only the United Nations Convention on the Law of the Sea (UNCLOS) articulates the right of hot pursuit, and is limited to the application of ships leaving national territorial waters into international waters. Once the ship enters the territorial waters of another sovereign state, the right of hot pursuit ends. Another challenge faced by the international community is the notion that such a right also applies on land, which increases tensions regarding national sovereignty and territorial integrity.

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[1] See appendix I for the entire article 2 of the UN Charter.

Asymmetric warfare is thus a complicating factor for the increasingly strained notion of national sovereignty, as the non-state actors can take advantage of operating in small, covert groups, with no recognized territory or population to defend, to commit violent and lethal violations of international law, without facing the reprisals that a member state might face having committed the same violations. This, together with the limited methods to effectively confine the actions committed by these non-state actors, and the ambiguous legal precedent for such actions, has led to increasingly complicated problems faced by the international community to protect the human rights of all human beings and prevent geopolitical escalation of conflicts.

Definition of Key Terms

National Sovereignty (Westphalian Sovereignty)

Derived from the "Peace of Westphalia," signed in 1648: "the principle of international law that each nation state has sovereignty (the full right and power of a governing body to govern itself without any interference from outside sources or bodies) over its territory and domestic affairs, to the exclusion of all external powers, on the principle of non-interference in another country's domestic affairs, and that each state (regardless of size) is equal in international law."

Asymmetric Warfare

Defined as "a war between belligerents whose relative military power differs significantly, or whose strategy or tactics differ significantly."

Territorial Integrity

Defined as "the principle under international law that nation-states should not attempt to promote secessionist movements or to promote border changes in other nation-states, conversely stating that imposition by force of a border change is an act of aggression."

Violent Non-State Actor (VNSA)

Defined by the United States military as "individuals or organizations that have economic, political or social power and are able to influence at a national and sometimes international level but do not belong to or ally themselves to any particular country or state."

General Overview

In the general overview, this research report will first briefly elaborate on what asymmetric warfare entails, and will then provide a case study of asymmetrical warfare and its challenge to national sovereignty. It will analyse the geopolitical situations that led to the escalation of the conflict, and the challenges faced by the international community to effectively overcome these challenges. It will also investigate the consequences of asymmetric warfare in the context of a case study, and the results of the methods that the international community used. The case study to be discussed is the Islamic State of Iraq and the Levant (ISIL)[2], in Iraq and Syria. It is important to bear in mind that the context provided by the conflict in Iraq and Syria is only to make the concept of asymmetric warfare and national sovereignty clear. The resolutions discussed should encompass a more general solution to the issue, not only focusing on this specific conflict.

Asymmetric Warfare

When a situation occurs where there is a great difference between two warring parties in their military power or strategy, one will often notice that the weaker combatants will attempt a different form of warfare in order to compensate for the greater military power of the opposing party. This is opposed to symmetric warfare, where the military capabilities of two parties are similar, and their success is dependent on details and execution. There are numerous ways in which the seemingly inferior side may be able to pose a significant challenge to the other party in the conflict.

It is often assumed that the party with the greater number of troops is at an advantage compared to the other opposing party. However, a simple way in which the seemingly weaker side may prove to be more effective is on strategic. If there is a more effective command and control structure of the troops, it may prove more efficient at combatting its opponents, which may have a greater number of troops, but lack the same efficiency in command.

Similar methods to compensate for a smaller number of troops may be a more tactical approach to the conflict. For example, a technological advantage such as the cross bow proved to be for the English at the Battle of Crecy. Another factor may be vulnerable infrastructure, which if attacked effectively may outweigh the advantage of the opponents due to the great destruction.

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[2] The organization is known under numerous other names that differ depending on each perspective and the extent to which they recognize the organization. It may be useful for delegates to conduct some research into what their respective country is known for using to prevent any irrelevant discussions during the debate.

The use of terrain is another instance where smaller militias and non-state actors are able to prove to be a great challenge for the opposing party. The Battle of Thermopylae is a good example, as Persian forces were funnelled to an extent where their numerical advantage was cancelled, through the strategic use of a defile.

Another frequently occurring example is proxy warfare, where a seemingly independent non-state actor carries out warfare, yet are connected to a particular nation. This means that they may receive military equipment, training or financial aid from the nation to which it may be associated.

Finally, the final example of a form of asymmetric warfare is an individual act of terrorism. Though there is debate about whether terrorism should be considered a part of asymmetric warfare, increasingly there is a consensus that it should be. Individual acts of terrorism are able to significantly do damage to the opposing side, as for example the events on September 11 had on the United States of America. These attacks by al-Qaida, as well as many other examples of terrorism in recent history have been a method through which smaller VNSA's are able to gain a global platform and to significantly damage the opposing side in the respective conflict.

The ISIL in Iraq and Syria

The Salafi jihadi extremist group and self-proclaimed caliphate ISIL is led by Sunni Arabs from Iraq and Syria. The VNSA has control over territory that contains a population of over ten million people. According to the UN, ISIL is responsible for human rights abuses and war crimes, while Amnesty International has reported large scale ethnic cleansing committed by the organisation. The UN, and among it many other nations such as the United States of America and the United Kingdom, have declared ISIL as a terrorist organisation, which means that it may be considered a VNSA. As aforementioned, the fact that many nations and international organisations have not recognized the ISIL as a state means that under the scope of international law, they are not held to the same standards and reprisals when they commit mass atrocity and war crimes.

The conflict with the ISIL can be classified as an example of asymmetric warfare, as there is a conflict between a military force, the United States of America and the Counter-ISIL Coalition, superior to a smaller force, namely ISIL. Despite the great difference in military capabilities, the international community, and in particular the Western nations have found it difficult to effectively contain the rise of the ISIL, and combat its forces. Also in this particular conflict, the issue of national sovereignty plays a key role as an obstacle to solve the issue.

To provide some context, the Counter-ISIL Coalition was originally only organised in Iraq, as the Iraqi government had asked the international community to intervene, as it had proven to be unable to sufficiently resist the rise of the ISIL in the territories held by the Iraqi state. In response to this call for an intervention, the Obama administration took the lead in forming a large coalition with support from countries in both Europe and the Middle East, and carried out a series of air strikes in order to provide support for the local troops fighting the combatants on the ground. It was only later that the air strikes were expanded into territory that belongs to Syria. This happened without clear consent from Bashar al-Assad, President of Syria. However, the President has not escalated the infringement of national sovereignty, as the ISIL is also a threat to his rule in the country, and he is content with the Western world fighting the ISIL instead of laying its focus on the dictatorial rule of Bashar al-Assad, and the many mass atrocity crimes that the UN, among other organisations and nations, have claimed that he has committed.

Many argue that the intervention of the Counter-ISIL Coalition is illegal under international law, as it jeopardises the national sovereignty in Syria. A particularly heated point of discussion is the fact that certain parties believe that the United States and its allies do not have a mandate to carry out these air strikes in Syria. For example, numerous attempts in the United Nations Security Council to authorise an intervention in the region have failed. The Russian Federation in particular is angered by the fact that the United States has ignored the decisions of the UN Security Council, and intervened regardless of the decisions made. The United States of America however will claim that it has such authority under the "responsibility to protect," which is a framework set up by Secretaries General Kofi Annan and Ban Ki-moon of the UN. The responsibility to protect (R2P), states that nations have a primary responsibility[3], and that if a state is unable to live up to its primary responsibilities, the international community has its own responsibility to intervene in order to protect the citizens of the respective nation. It can thus be argued that Bashar al-Assad is unable to ensure his primary responsibilities to the citizens in his country, and that therefore the international community has the authority to intervene.

It has thus been proven difficult, also in the situation in Syria and Iraq, to find a balance between protecting the human rights of the civilians in a country, effectively combatting a VNSA such as the ISIL, and respecting article 2 of the UN charter, in which member states have agreed to respect the sovereignty of each member state of the UN. Resulting from this, it becomes clear that if a solution is not found for this issue, the

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[3] More information on the primary responsibilities under the responsibility to protect can be found in the Evaluation of Previous Attempts to Resolve the Issue.

international community will continue to fall behind in its ability to adapt and combat violent non-state actors that take advantage of asymmetric warfare tactics and strategy.

A Broader Context

The general overview has given the example of the ISIL, and the role of national sovereignty that plays a role in the asymmetric warfare that occurs. However it is important that one realises that this is only one example of the implications of the issue that is to be discussed, and that the debate in the First Committee of the General Assembly should not revolve around the conflict in Iraq and Syria specifically. This is an issue, which has numerous examples and implications[4], and should not be limited to specific instances.

Major Parties Involved and Their Views

As the issue is abstract and does not provide a specific context, it is not possible to effectively state that certain parties are always involved in the issue. However, what is important is to understand that there have been calls from the international community to revise the traditional notion of national sovereignty, as many recent developments, such as the increase use of asymmetrical warfare tactics, have shown that with the current scope of international law, effectively addressing the issues has become a greater challenge than before. Nations that have shown their discontent with the current status quo include the United States of America, United Kingdom, the Russian Federation, and many others. It is, however, possible to identify certain nations resulting from their involvement in asymmetric warfare, which is done below.

The United States of America

The United States of America has been involved in numerous conflicts in which elements of asymmetric warfare can be identified. Due to the vast military power that the US possesses, it almost never fails to be considered as a dominant power in a conflict. A good example is the Philippine-American War, from 1899 to 1902, where the Philippine forces fought with nothing more than bows, spears and knives. This was significantly less powerful than the US Army was, as it had more troops and better military equipment and was able to continuously supply important supplies such as ammunition. The USA was further involved in numerous proxy wars, particularly during the Cold War. Conflicts in Viet Nam and

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[4] The Timeline of Events will list examples of other conflicts where national sovereignty and asymmetric warfare played a significant role.

Afghanistan jump easiest to mind. Finally the US-led invasion of Iraq following the events of September 11 was another example of military superiority, though this only lasted until Saddam Hussein was removed from power, after which the Iraqi forces moved on to other forms of warfare that proved more difficult for the US Army to combat.

The United Kingdom

The United Kingdom frequently found itself in situations of asymmetric warfare, especially during periods of vast colonisation. When looking for economic resources in Asia and Africa, British forces often encountered local forces that were very simply cast aside due to the military superiority of the British Army of their technology and tactics. This allowed them to quickly conquer large amounts of foreign land, and expand their territory. The United Kingdom is further frequently involved in coalitions led by the USA, and their participation in conflicts in for example Iraq or Afghanistan, adds to the level of asymmetry of the conflict.

Russian Federation

Though to a lesser extent, the Soviet Union (which later became the Russian Federation after the global fall of communism), was also involved in matters of asymmetric warfare. It played a significant role during proxy wars that occurred during the Cold War, where it aided communist regimes and/or rebellions in countries such as Viet Nam and Afghanistan. Also during World War II, there were moments that Soviet forces were significantly weaker than the German forces, but managed to resist the Germans as a result of guerrilla tactics.

Timeline of Events

The timeline of events below will list a number of conflicts where national sovereignty and asymmetric warfare have been an issue. The event will be followed by a very brief explanation of the event.

Date	Description of event
1775 – 1783	*American Revolutionary War*
	Pro-slavery and Confederate guerrillas attacked the stronger army of the Union and its territories.
1899 – 1902	*Philippine-American War*
	Military superior US Army fought a Philippine Army that used spears, knives, and bows.
1899 – 1902	*Second Boer War*

	After losing significant strategic cities, instead of accepting peace like most Europeans would, the Boers diverted to very effective guerrilla tactics
1914 – 1918	*World War I*
	Germany vs. Belgium, where Belgium was weaker; Austria-Hungary vs. Serbia, where Serbia was weaker; and Ottomans vs. Arabs, where Arabs were weaker.
1939 – 1945	*World War II*
	Finland opposed a Soviet invasion; Warsaw uprisings in Poland; and Germany in Yuguslavia.
1955 – 1975	*Vietnam War*
	A proxy war between originally the French, and later the USA, against communist countries such as Soviet Union and China.
1964 – Present	*Israel – Palestine War*
	Military of Israel supported by USA and superior to Hamas forces.
1990 – 1991	*Persian Gulf War*
	Military alliance led by US was superior in military tactics and equipment to its opposition in the Gulf.
2003 – 2011	*Iraq War*
	US-led coalition superior to Iraqi forces, which diverted to more effective guerrilla tactics.
2012 – Present	*Syrian Civil War*
	Government opposition engaged in guerrilla warfare; and US-led coalition has greater military power.

UN involvement, Relevant Resolutions, Treaties and Events

The United Nations General Assembly, specifically the sixth committee, has been involved in attempting to solve the issue. However, the resolutions adopted have not yet proposed a revision of the current understanding of national sovereignty, instead discussing the issue as a part of a greater discussion about international terrorism, and how the international community should react to the greater threat of terrorism in our current society. Within the sixth committee of the UN General Assembly, there remain large differences of opinion, and this has further stagnated the process of finding a solution to this imminent issue. Three important resolutions adopted by the UN General Assembly are listed below:

- Declaration on Measures to Eliminate International Terrorism, 9 December 1994 (**A/RES/49/60)**

- Measures to Eliminate International Terrorism, 29 January 1996, (**A/RES/50/53**)

- Measures to Eliminate International Terrorism, 30 July 2014, (**A/RES/69/209**)

Evaluation of Previous Attempts to Resolve the Issue

The most notable attempt to redefine the traditional view of national sovereignty is the aforementioned responsibility to protect. Kofi Annan wrote "We the Peoples," a report on the role of the UN in the 21st century, posing the question "if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica — to gross and systematic violations of human rights that offend every precept of our common humanity?" This report was written in response to the mass atrocity crimes that were committed during the Rwandan Genocide of 1994, and the massacre of the Srebrenica enclave in 1995.

Following numerous international conventions, and the eventual recognition of the international community that state sovereignty required a revision, Secretary General of the UN Ban Ki-moon released a report entitled "implementing the responsibility to protect," which was the first comprehensive document published by the UN secretariat on the R2P, and would turn the concept into a policy. The report set the foundation and direction for any future discussions regarding the R2P, and proposed a three-pillar approach to the R2P:

1. A state has a responsibility to protect its population from genocide, war crimes, crimes against humanity, and ethnic cleansing.

2. The international community has a responsibility to assist the state to fulfil its primary responsibility.

3. If the state manifestly fails to protect its citizens from the four above mass atrocities and peaceful measures have failed, the international community has the responsibility to intervene through coercive measures such as economic sanctions. Military intervention is considered the last resort.

The above has been taken directly from the report published by the UN secretariat.

Since 2009, the UN Security Council has frequently referred to the R2P in regards to conflicts in Darfur, Libya, Cote d'Ivoire, Yemen, Mali, Sudan and South Sudan. It has also reaffirmed its support for the R2P in a non-specific context, and stated that it supports the new notion of state sovereignty provided by this new doctrine.

However, despite this, in practise it has proven to be more difficult to implement this new doctrine, and apply it to current conflicts. For example, the situation in Libya during the Arab Spring, under Gadhafi resulted in the first time that the UN Security Council authorized military intervention in Resolution 1973. North Atlantic Treaty Organization began an authorised air offense on key targets of the regime in Libya, and effectively helped to remove the dictatorial Gadhafi from power. This has led to serious criticism that a regime change was enforced prematurely. The coalition supported the change of regime, as they believed that this was the only way to effectively protect the primary responsibility of the Libyan government, thus protecting the civilians of mass atrocity crimes. However, for example Russia, argue that a regime change was not necessary to restore the primary responsibilities, and thus that the Western coalition overstepped and abused its mandate to intervene using the jurisdiction of the R2P.

This controversy regarding the situation in Libya has led to growing scepticism regarding the doctrine of R2P. This is one of the most important reasons that the UN Security Council has failed to agree to intervention in the Syrian conflict. The Russian Federation has vetoed resolutions that referred to the R2P as a precedent to intervene in the conflict, as it is afraid that it will once more be abused to protect the private agendas of individual nations.

Possible Solutions

The first area where delegates can begin to explore is to attempt to refine the concept and policy of R2P, taking into account some of the challenges, which the international community has faced in successfully trying to implement the policy. A possibility would be the creation of an administrative body that would determine to what extent intervention is authorised, in order to prevent abuse of the policy to protect a domestic agenda. The R2P can further be refined to encompass the increasing use of asymmetric warfare tactics.

Secondly, the right of hot pursuit as stated by the UNCLOS is also something for delegates to analyse and possibly adapt in order to also be effective on land. This would remove the ambiguity currently surrounded when this doctrine is used to justify the pursuit of

VNSA's. Similarly, the delegates could find a way to expand this right under the UNCLOS as well, as currently it is limited to international waters in which pursuit can take place.

Delegates should also consider a framework for international cooperation regarding the combatting of the VNSA's. As VNSA's flee to other countries, a way must be found to cooperate with the other country in question, and together attempt to prevent any further violations of international law. This framework may include ways where prisoners may be exchanged, and an exchange of knowledge and expertise regarding the combatting of VNSA's.

Finally, delegates should consider their own alternative revision of national sovereignty that can encompass all instances where national sovereignty and asymmetric warfare have proven to be a challenge for the international community, and that ensures that there is less ambiguous legal scope for combatting VNSA's. This will require cooperation from all the member states of the United Nations and the General Assembly.

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Appendices

Appendix I

Article 2 of the UN Charter:

Article 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.

2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.

3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.