BEYOND 'OVERALL CONTROL': RE-EVALUATING STATE ATTRIBUTION AND BELLIGERENT STATUS IN THE CONTEXT OF IRAN'S PROXY NETWORK IN THE MIDDLE EAST

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ABSTRACT

Proxy warfare, a defining characteristic of contemporary conflict, progressively undermines the fundamental tenets of International Humanitarian Law (IHL). This research aims to assess state attribution and belligerent status, specifically regarding Iran's intricate proxy network in the Middle East, including entities such as Hezbollah and the Houthis. Present legal frameworks, particularly the "overall control" of the International Criminal Tribunal for the former Yugoslavia and the "effective control" of the International Court of Justice, inadequately categorise situations in which governments have considerable, if sometimes disavowed, influence over non-state armed entities. This paper examines these proxies through case studies, revealing evidentiary deficiencies and challenges in demonstrating the necessary control to directly attribute their acts to Iran. This study examines the significant ramifications of conflict categorisation (International Armed Conflict vs Non-International Armed Conflict) on combatant status, Prisoner of War rights, and targeting regulations. This study advocates for an enhanced legal framework that recognises the intricate realities of proxy warfare, advancing "beyond overall control" to ensure greater accountability for IHL violations and to offer clearer direction on belligerent status in these complex, asymmetrical wars.

Keywords – International Humanitarian Law, Proxy Warfare,
Overall Control, Effective Control,
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