

Non-State Actors in International Law: Understanding the Role of Foreign Terrorist Fighters in the ISIS-Khorasan Attack in Russia

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The recent attack in Russia by the ISIS-Khorasan and the killing of 150 Russians has sparked international eyeballs. The act is condemned by the international community. Different views have been expressed about this attack and its political implications. In this article, the authors talk about the responsibility of non-state actors in international law and throw light on one kind of such actor called Foreign Terrorist Fighters who have played an integral role for organizations like ISIS-Khorasan. In simple terms, non-state actors are an umbrella concept that encompasses all those actors in international relations that are not States. It comprises individuals as well as entities, the latter spanning a large range of organizations and institutions on the global, regional, sub-regional as well as local levels.

The growing involvement of the non-state actors is seen as a criticism of international law as International law largely deals with states. Therefore, it becomes difficult to encompass the phenomenon of non-state actors within the realm of international law. The determinations of responsibility for non-state actors are implementable by states through punitive measures, so, unless the state plays an active role, it is very difficult to counter these non-state actors at the municipal level. International Court of Justice in its judgment in Nicaragua judgment used

the concept of non-state actors in international law. But in that judgment, the Court did not make any significant contribution to the responsibility of non-state actors in international law. The contras who were responsible for attacking the Nicaraguan government were funded and helped by the USA. Therefore, Nicaragua took the matter to the International Court of Justice. However, the decision of the ICJ said the United States was responsible for the case and held it responsible for the violation of international law. The situation has significantly changed after the 9/11 attack in the United States. Al Qaeda's attack in the United States made non-state actors responsible under international law. Later after the Islamic State attacked Iraq the scope and responsibility of non state actors became a matter of common concern under international law. Consequently, United Nations Security Council has passed binding resolutions to make non-state actors responsible under international law. Security Council passed resolution 1373 had authorized to use force against terrorists. The resolution aimed to hinder terrorist groups in various ways. Similarly, resolutions 1189 (1998), 1269 (1999) and 1368 (2001) have been passed concerning terrorism.

Under these resolutions, UN member states were encouraged to share their intelligence on terrorist groups to assist in combating international terrorism. For example, Resolution 2396 deals with international obligations related to border security and information sharing that includes the use of " Passenger Name Record(PNR) and Advance Passenger Information (API), biometrics,

The resolution also calls on all states to adjust their national laws so that they can ratify all of the existing international conventions on terrorism. Similarly, United Nations Security Council Resolution 2249 which was unanimously adopted on 20 November 2015. It notably calls upon all member States to expand their efforts against both ISIL and the al-Nusra Front as well as other al-Qaeda affiliates as designated by the Security Council.

Taking the case of one such group of non state actor being Foreign Terrorist Fighters (FTFs) who are defined under U.N Security Council Resolution 2178 as individuals who travel to a State other than their states of residence or nationality for the purpose of 'the perpetration, planning or preparation of , or participation' in terrorist acts or providing or receiving the terrorist training , including in connection with armed conflict.

The need of the hour is to investigate the act of the ISIS Khorsan in Russia and throw light on the participants like the FTFs who are involved in such crimes and the reason behind them getting involved with an aim to take preventive actions to stop such attacks from taking place and preserve international peace and security under the UN Charter.

[Photo by the Governor of Moscow Oblast, via Wikimedia Commons]

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