



## **POLICY BRIEF**

# **The Role Of Non State Actors In Pakistan's Security Landscape**

Hajra Hashmi  
Fareed Khan Kakar

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## Executive Summary

The term “Non-State Actors” (NSAs) remains ambiguous in international law, despite various interpretations by different scholars and entities. This ambiguity stems from the complex nature of NSAs, which gives rise to both conceptual and dynamic issues. NSAs have become a significant force in global politics, constantly challenging the traditional, state-centric perspective of international law. These actors include terrorist organizations, private militias, warlords, mercenaries, rebel forces, and insurgent groups. Their actions have far-reaching implications for both national and international security and stability.

Pakistan is one of the countries most affected by the activities of NSAs, largely due to its geo-strategic position. The country has faced significant challenges in dealing with the repercussions of these actors and mitigating their influence, mainly because of the lack of a robust legal framework within international law to address the role and accountability of NSAs.

In response, Pakistan has implemented domestic legal mechanisms to counter the violence and instability caused by these groups. However, the absence of a unified international strategy has hindered effective coordination and implementation of countermeasures.

## Policy Recommendations

- **Enhancing International Cooperation and Establishing International Organizations:** Member states should collaborate on security, intelligence sharing, and resources, while the UN establishes an international organization to facilitate cooperation on counterterrorism and law enforcement strategies.
- **Imposing Economic and Technological Sanctions on NSAs:** The UN should impose sanctions, including financial, trade, travel, and logistical restrictions, and restrict NSAs’ access to cyber infrastructure and dual-use technologies.
- **Pakistan’s Participation in International Legal Frameworks on NSAs:** Pakistan should actively participate in developing a unified international framework for regulating NSAs and contribute to the creation of a shared definition of NSAs in international forums.
- **Leveraging Counter-Terrorism Experience to Address Non-State Actor Threats:** Pakistan should leverage its counterterrorism experience to advocate for stronger international surveillance of NSAs and help close gaps in global governance that NSAs exploit.

## **CHALLENGES IN DEFINING NSAs WITHIN INTERNATIONAL LAW**

The absence of a widely recognized definition for “NSAs” (NSAs) presents a major challenge in developing a unified legal framework. Historically, international law has consistently focused on state entities, which has allowed the impact of NSAs to grow. Furthermore, there have been certain deadlocks between multiple parties on specific issues that have led to a halt in the creation of a unified definition.

### **United States’ Stance**

While international law acknowledges the right to resist foreign occupation or oppressive regimes, the U.S. has taken a stricter view in labeling groups as "terrorist" when their actions violate humanitarian principles, such as deliberately targeting civilians or engaging in acts of mass violence, even if they claim to fight for self-determination. Therefore, under U.S. policy, a group may be considered a terrorist organization even if it presents itself as a "freedom fighter," depending on its methods and adherence to international humanitarian law.

### **Organization of Islamic Conference (OIC) Reservations**

The Organization of Islamic Conference (OIC) argues that groups resisting foreign occupation, colonialism, and imperialism should not be labelled as terrorists, as they have the right to self-determination and self-defense. The OIC views their movements and struggles as legitimate.

### **Implications of NSAs on Pakistan**

NSAs, such as insurgent and terrorist groups, have had a profound impact on Pakistan’s security landscape. These groups have exploited Pakistan’s geopolitical vulnerabilities, using its territory for both local and international operations. Their illegal actions have compromised Pakistan’s security and damaged relations with neighboring states and, more specifically, the international community. Additionally, they have targeted civilians and public infrastructure to assert their presence and achieve their political goals.

### **Geopolitical Vulnerabilities**

Historically, the open border between Pakistan and Afghanistan has allowed extremists to move freely. Following the Taliban’s rise to power in Afghanistan in 2021, there was hope in Islamabad that the political shift would lead to regional stability. However, this expectation

was quickly dashed, as evidenced by a sharp increase in terrorist activity within Pakistan. In 2024 alone, over 2,500 people died due to terrorism-related incidents, including civilians, security forces, and militants. Many of these attacks were carried out by Tehrik-e-Taliban Pakistan (TTP), which has intensified its brutal campaign against Pakistani military and civilian installations.<sup>1</sup>

## IMPACT OF NSAs ON PAKISTAN'S INTERNAL SECURITY

The rise of NSAs in Pakistan has led to a significant increase in violent incidents, particularly in Balochistan and Khyber Pakhtunkhwa. These organizations, which often operate across porous borders, pose a direct threat to the state's sovereignty and security apparatus. According to international law, NSAs involved in armed conflict may be classified as insurgents, freedom fighters, terrorists, or even de facto governing bodies, depending on their motives, methods, and the degree of recognition they receive from international authorities.<sup>2</sup>

In early 2025, a major confrontation between Pakistani security forces and Baloch separatist rebels resulted in the deaths of 18 paramilitary soldiers and 23 insurgents.<sup>3</sup> This conflict underscores the persistent threat that NSAs pose to Pakistan's internal stability. The participation of these groups in sustained, organized military warfare raises questions about the application of International Humanitarian Law (IHL), particularly the Geneva Conventions, which govern armed conflicts involving NSAs.

The issue at hand is determining whether such insurgencies fall under Common Article 3 of the Geneva Conventions, which pertains to non-international armed conflicts (NIACs). If the conflict meets the criteria for a NIAC—such as ongoing violence and the presence of organized armed groups—then fighters, including NSA members, may be entitled to protections under humanitarian law. However, states often label such groups as terrorists in an effort to deny them recognition and legitimacy under IHL.<sup>4</sup>

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<sup>1</sup> Ghulam Shabbir, Ali Raza and Ahtisham Butt, 'The Re-Emergence of Taliban in Afghanistan and Its Impacts on the Indo-Pak Geo-Strategic Politics' (2022) 59(2) *Journal of the Research Society of Pakistan* [https://pu.edu.pk/images/journal/history/PDF-FILES/16\\_59\\_2\\_22.pdf](https://pu.edu.pk/images/journal/history/PDF-FILES/16_59_2_22.pdf)

<sup>2</sup> Cedric Ryngaert, 'NSAs and International Humanitarian Law' (KU Leuven Institute for International Law, Working Paper No 146, 2009) <https://www.law.kuleuven.be/iir/nl/onderzoek/working-papers/WP146e.pdf>

<sup>3</sup> Arshad Mehmood, 'Deadly BLA Attack in Balochistan Kills 18 Pakistani Security Personnel' (The Jerusalem Post, 3 February 2025) <https://www.jpost.com/international/article-840456> accessed

<sup>4</sup> UN Security Council, 'Geneva Conventions More Crucial Than Ever, Humanitarian Experts Stress, as Security Council Marks Seventieth Anniversary of Key Instruments' (8596th Meeting, 13 August 2019) <https://press.un.org/en/2019/sc13917.doc.htm>

## **UNITED NATIONS SECURITY COUNCIL (UNSC) RESOLUTION 1373 (2001)**

All nations must take strict measures to prevent and stop the funding of terrorism, as per a decision made by the UN Security Council. This includes making it illegal for individuals or groups to provide or receive money, directly or indirectly, knowing that it will be used for terrorist purposes. Additionally, countries are required to immediately freeze the financial assets of terrorists or terrorist organizations. Governments must also prohibit their citizens and any organizations within their borders from providing money, materials, or services to terrorists or anyone associated with them. The resolution further emphasizes that sponsoring, planning, and inciting terrorism contradict the core values of the United Nations. To ensure compliance, the Security Council will establish a monitoring committee composed of all its members. Within 30 days, this committee will submit a work plan outlining its duties and consult with the UN Secretary-General to determine what support is needed. The ultimate goal is to strengthen international efforts to combat terrorism and cut off financial support for terrorist organizations.<sup>5</sup>

## **UNITED NATIONS SECURITY COUNCIL (UNSC) RESOLUTION 2178 (2014)**

The threat posed by foreign terrorist fighters (FTFs) and their cross-border movements is addressed in UN Security Council Resolution 2178 (2014). The resolution reaffirms states' responsibilities to prevent and combat terrorism while upholding due process and human rights under international law. It strengthens the legal framework established by existing counterterrorism conventions and UN resolutions by requiring states to make it illegal for FTFs to recruit, travel, and finance terrorism. The resolution highlights the role of NSAs in transnational terrorism, particularly those affiliated with Al-Qaeda and ISIS, and calls for international cooperation to limit their operations. To reinforce state sovereignty in the face of challenges from NSAs, it emphasizes the need for countries to strengthen border controls, improve international intelligence sharing, and enact legislation to prosecute those who support terrorist organizations.<sup>6</sup>

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<sup>5</sup> UN Security Council Resolution 1373 (2001), UN Doc S/RES/1373 (28 September 2001)  
<http://unscr.com/en/resolutions/doc/1373>

<sup>6</sup> UN Security Council Resolution 2178 (2014), UN Doc S/RES/2178 (24 September 2014)  
<http://unscr.com/en/resolutions/doc/2178>

## INTERNATIONAL COURT OF JUSTICE REMARKS ON NSAs- *NICARAGUA V. UNITED STATES OF AMERICA*

An important precedent regarding state liability for NSAs was set by the 1986 International Court of Justice (ICJ) decision in *Nicaragua v. United States*. Nicaragua accused the United States of violating international law by providing financial, military, and training support to opposition rebels, as well as directly participating in military operations such as mining Nicaraguan harbors. The ICJ ruled that the United States had breached Nicaragua's sovereignty and the principle of non-intervention. However, the court clarified that a state must have "effective control" over the specific activities of a non-state actor, rather than simply providing general assistance, in order to be held directly responsible for their actions. The "effective control" test has since become a fundamental principle in international law for determining state accountability in proxy conflicts. This verdict has shaped future cases involving state involvement with armed organizations and reinforced the restrictions on the use of force and non-intervention under customary international law. The challenges of enforcing ICJ rulings against powerful nations were underscored by the United States' refusal to comply with the court's decision.<sup>7</sup>

## INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA (ICTY)

The total control test for assessing state accountability for NSAs was first used in the 1999 Prosecutor v. Duško Tadić case before the International Criminal Tribunal for the Former Yugoslavia (ICTY). The ICTY decided that a state could be held accountable if it exercised general control over an armed group, including organizing, coordinating, or providing support, even without issuing direct orders for specific operations. This is in contrast to the ICJ's more stringent effective control test in *Nicaragua v. United States* (1986), which required a state to have direct operational control over specific actions of a non-state actor. Although it lowers the bar for attribution of state culpability, this wider test was important in international law, especially for situations involving state-backed armed organizations in wars. Nevertheless, it is still up for discussion.

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<sup>7</sup> Case Concerning Military and Paramilitary Activities in and Against Nicaragua (*Nicaragua v United States of America*) (Jurisdiction and Admissibility) [1984] ICJ Rep 392 <https://www.icj-cij.org/sites/default/files/case-related/70/070-19841126-JUD-01-00-EN.pdf>

## ROME STATUTE (1998) PROVISIONS REGARDING NSAs

Leaders of NSAs are held accountable for crimes under international law by the Rome Statute (1998), which established the International Criminal Court (ICC). The statute applies to crimes against humanity, war crimes, genocide, and aggression, regardless of whether the offenders are state agents or members of armed non-state organizations. By ensuring that NSAs, including terrorist organizations, militias, and rebel groups, can be legally prosecuted for violations of international humanitarian law, the statute specifically addresses non-international armed conflicts. Important provisions, such as Article 8, prohibit both state and NSAs from committing war crimes, including the recruitment of child soldiers, attacks on civilians, and sexual violence during conflicts. As a result, the Rome Statute reinforces the principle that NSAs are subject to international law and can be held personally accountable for grave crimes.<sup>8</sup>

### Precedents Set by International Criminal Court

The Prosecutor v. Thomas Lubanga Dyilo (2012) case established a significant precedent for the prosecution of NSAs and was the first conviction by the ICC under the Rome Statute. For recruiting and enrolling child soldiers under the age of 15 and employing them in combat, Lubanga, the commander of the Union of Congolese Patriots (UPC), a non-state armed organization in the Democratic Republic of the Congo, was convicted of war crimes. Even if they are not state officials, the ICC decided that NSAs' leaders can be held criminally liable for transgressing international law on an individual basis. This case illustrated the ICC's role in holding NSAs accountable for crimes including child recruitment, genocide, and crimes against humanity and reaffirmed the application of IHL to these actors.<sup>9</sup>

## GENEVA CONVENTIONS 1949 AND ADDITIONAL PROTOCOLS 1977

The fundamental principles of IHL are established by the 1949 Geneva Conventions and the 1977 Additional Protocols. These laws apply to armed conflicts, including those involving NSAs such as rebel groups, insurgents, and other armed organizations. Common Article 3 of the Geneva Conventions is particularly important, as it extends essential humanitarian safeguards to non-international armed conflicts and requires all parties, including

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<sup>8</sup> Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>

<sup>9</sup> Prosecutor v Thomas Lubanga Dyilo (Judgment) ICC-01/04-01/06 (ICC, 14 March 2012) <https://www.icc-cpi.int/sites/default/files/CaseInformationSheets/LubangaEng.pdf>



NSAs, to adhere to basic standards of humane treatment. It explicitly prohibits actions like torture, summary executions, hostage-taking, and degrading treatment, even in situations where there is no formal war between two nations. This clause recognizes that, even if non-state armed groups are not formal state bodies, they are still subject to international law.

Additional Protocol II (1977) further develops the legal framework for non-international armed conflicts, placing more stringent obligations on states and NSAs regarding how to conduct war. It demands adherence to fundamental human rights in internal conflicts, forbids attacks on civilians, and ensures the humane treatment of captives. Most importantly, this protocol affirms that even when NSAs are fighting against a government, they must still abide by the laws of war. However, these organizations do not enjoy the same legal protections as state militaries, as the protocol does not grant them legitimacy or combatant status under international law.

Thus, the Geneva Conventions and Additional Protocols are crucial for regulating the conduct of NSAs in armed conflicts, holding them accountable for war crimes, and protecting civilians from unnecessary harm.<sup>10</sup>

## RECOMMENDATIONS

- **Enhancing International Cooperation and Establishing International Organizations:** Member states should collaborate on security, intelligence sharing, and resources, while the UN establishes an international organization to facilitate cooperation on counterterrorism and law enforcement strategies.
- **Imposing Economic and Technological Sanctions on NSAs:** The UN should impose sanctions, including financial, trade, travel, and logistical restrictions, and restrict NSAs' access to cyber infrastructure and dual-use technologies.
- **Pakistan's Participation in International Legal Frameworks on NSAs:** Pakistan should actively participate in developing a unified international framework for regulating NSAs and contribute to the creation of a shared definition of NSAs on international forums.
- **Leveraging Counter-Terrorism Experience to Address NSA Threats:** Pakistan should leverage its counterterrorism experience to advocate for stronger international surveillance of NSAs and help close gaps in global governance that NSAs exploit.

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<sup>10</sup> Françoise Bouchet-Saulnier, *The Practical Guide to Humanitarian Law* (Doctors Without Borders, 3rd edn, 2013) <https://guide-humanitarian-law.org/content/article/3/non-state-armed-groups/>



<b>Action Matrix</b>				
<b>Options for International Community and Pakistan</b>				
<b>Option</b>	<b>Pathways to Solution</b>	<b>Implementation of Solution</b>	<b>Actors Responsible</b>	<b>Implementation Timelines</b>
<b>Enhancing International Cooperation and Establishing International Organizations</b>	Member states should collaborate on security, intelligence sharing, and resources, while the UN establishes an international organization to facilitate cooperation on counterterrorism and law enforcement strategies.	Establish a framework for international cooperation through the UN, focusing on intelligence sharing, resource allocation, and joint counterterrorism efforts.	<ul style="list-style-type: none"> <li>Ministry of Foreign Affairs, Pakistan</li> <li>Ministry of Interior, Pakistan</li> <li>United Nations, Member States</li> </ul>	<ul style="list-style-type: none"> <li>2-3 months to draft and present a petition to the UN</li> <li>6-12 months, to lay the foundation for intelligence sharing and cooperation through the UN.</li> <li>1-2 years for smooth implementation.</li> </ul>
<b>Imposing Economic and Technological Sanctions on NSAs</b>	The UN should impose sanctions, including financial, trade, travel, and logistical restrictions, and restrict NSAs' access to cyber infrastructure and dual-use technologies.	Introduce resolutions within the UN to enforce economic, technological, and travel sanctions, and restrict access to cyber infrastructure and dual-use technologies.	<ul style="list-style-type: none"> <li>Ministry of Foreign Affairs, Pakistan</li> <li>United Nations, Member States</li> <li>UN Security Council</li> </ul>	<ul style="list-style-type: none"> <li>1-2 months for communication with the UN.</li> <li>1-2 months for the UN to draw resolution.</li> </ul>
<b>Pakistan's Participation in International Legal Frameworks on NSAs</b>	Pakistan should actively participate in developing a unified international framework for regulating NSAs and contribute to the creation of a shared definition of NSAs on international forums.	Engage on international legal forums, contribute to drafting frameworks, and collaborate on defining NSAs in global law.	<ul style="list-style-type: none"> <li>Ministry of Foreign Affairs, Pakistan</li> <li>United Nations</li> <li>International Legal Bodies</li> </ul>	<ul style="list-style-type: none"> <li>1-2 years to become a more involved presence in relevant international spaces.</li> </ul>
<b>Leveraging Counter-Terrorism Experience to Address NSA Threats</b>	Pakistan should leverage its counterterrorism experience to advocate for stronger international surveillance of NSAs and help close gaps in global governance that NSAs exploit.	Advocate for enhanced international surveillance of NSAs, improve global counterterrorism measures, and close gaps in international law enforcement.	<ul style="list-style-type: none"> <li>Ministry of Foreign Affairs, Pakistan</li> <li>UN Security Council</li> <li>UN Security Council Counter-Terrorism Committee</li> </ul>	<ul style="list-style-type: none"> <li>1-2 years to become a more prominent voice in the advocacy space for counterterrorism within the international community.</li> </ul>