INTERNATIONAL SECURITY AND CONTEMPORARY ARMED CONFLICTS: ASSESSING THE EFFECTIVENESS OF INTERNATIONAL LEGAL RESPONSES*

Abstract

The international legal order built after 1945 rested on two connected premises: that the use of force between states would be prohibited and centrally policed through the United Nations Security Council, and that the conduct of any fighting that nonetheless occurred would be restrained by a settled body of humanitarian law. Eight decades on, both premises are under sustained strain. Non-international armed conflicts, from the Lake Chad Basin to Syria, now vastly outnumber traditional interstate wars, hybrid and proxy warfare blur the line between the two, and a permanent member of the Security Council has itself become a party to a major war of aggression. This article assesses the effectiveness of the international legal responses available to these realities using doctrinal research methodology: the jus ad bellum framework governing recourse to force, the jus in bello framework governing the conduct of hostilities, the judicial and quasi-judicial institutions, the International Court of Justice, the ad hoc tribunals and the International Criminal Court, built to enforce them, and the Responsibility to Protect doctrine developed to address the gap between the two. Using the Boko Haram insurgency in North East Nigeria, the Syrian civil war and the war in Ukraine as recurring illustrations, the article argues that international law has proven considerably more effective at classifying and condemning violations than at preventing or punishing them, and that this gap between normative clarity and practical enforcement, rather than any deficiency in the underlying legal rules, is the central challenge facing international security law today.

Keywords: International Security, Armed Conflicts, International Legal Response, Effectiveness

1. Introduction

War has never been fully lawless, but for most of recorded history it was law of a rather limited kind, governing chivalric conduct between combatants rather than restraining a sovereign's underlying decision to fight at all.[1] The Charter of the United Nations attempted something considerably more ambitious: a general prohibition on the threat or use of force in international relations, backed by a Security Council empowered to authorize collective enforcement action where that prohibition was breached.[2] Alongside this jus ad bellum framework governing recourse to force, a parallel and older body of international humanitarian law, codified most comprehensively in the four Geneva Conventions of 1949 and their 1977 Additional Protocols, sought to constrain how hostilities, once underway, could lawfully be conducted, protecting civilians, the wounded, and those no longer taking part in hostilities regardless of which side, if any, held the moral or legal high ground in starting the fight.[3]

The interwar period offers an instructive, if largely unsuccessful, precedent for the Charter's ambitions. The 1928 Kellogg-Briand Pact had already attempted to outlaw war as an instrument of national policy, a remarkably ambitious undertaking for its time, yet it lacked any accompanying institutional or enforcement machinery, leaving states that violated its terms subject to little beyond diplomatic censure, a deficiency the architects of the UN Charter sought explicitly to remedy by pairing the prohibition of force with a standing Security Council empowered to authorize collective enforcement.[4] Whether that remedy has, in practice, proven adequate to the task is precisely the question this article sets out to examine. Eighty years on, the gap between this architecture and the character of contemporary conflict has become difficult to ignore. The overwhelming majority of today's armed conflicts are non-international in character, fought not between states but between a state and one or more organized armed groups, or among such groups themselves, a pattern exemplified by the Boko Haram insurgency across Nigeria, Chad, Niger and Cameroon and by the fragmented, multi-party civil war that has consumed Syria for well over a decade.[5] Contemporary conflict increasingly resists even this binary classification, however, as proxy involvement, private military contractors, and cyber operations blur the line between international and non-international armed conflict in ways the drafters of 1949 could scarcely have anticipated.[6] And in February 2022, the international system confronted a scenario its architects had hoped to consign to history: a permanent member of the Security Council, the very body entrusted with policing the prohibition of force, launched a full-scale invasion of a neighboring sovereign state.[7]

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[1]Gray, C., *International Law and the Use of Force*, 4th ed., Oxford, Oxford University Press, 2018, 1.

[2]Charter of the United Nations, 26 June 1945, 1 UNTS XVI, arts 2(4), 51, 39 and 42.

[3]Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August 1949, 75 UNTS 287; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, 1125 UNTS 3; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, 1125 UNTS 609.

[4]General Treaty for Renunciation of War as an Instrument of National Policy (Kellogg-Briand Pact), 27 August 1928, 94 LNTS 57.

[5]Shaw, M.N., *International Law,* 9th ed., Cambridge, Cambridge University Press, 2021, 1150.

[6]Gray, C., *International Law and the Use of Force*, Oxford, Oxford University Press, 2018. 5.

[7]Shaw (n 4) 1155.

This article asks a deliberately evaluative question: not simply what the applicable international legal rules say, but how effectively they have actually functioned when tested against the realities of contemporary armed conflict. Section two examines the jus ad bellum framework and its principal exceptions. Section three turns to international humanitarian law and its application to the conduct of hostilities. Section four considers the difficulties of classifying contemporary conflicts that resist the international and non-international binary on which so much of the applicable law depends. Section five assesses the judicial and quasi-judicial institutions built to enforce these frameworks. Section six examines the Responsibility to Protect doctrine as a response to the gap between prohibition and enforcement. Section seven draws together illustrative case studies, and section eight offers a critical evaluation of what this composite legal architecture has and has not achieved, before section nine proposes a way forward and the article concludes.

2. The *Jus Ad Bellum* Framework: Prohibition and its Exceptions

The United Nations Charter, Article 2(4) states that every member state shall refrain from threatening or using force against any other nation in the interest of its territorial integrity or political independence, which the International Court of Justice has found is part of customary international law that all states must obey even if they are not members of the United Nations.[8] There are two specific exceptions in the Charter: the inherent right of individual or collective self-defence in response to an armed attack, pursuant to Article 51, and collective enforcement measures under Chapter VII of the Charter, where the Security Council decides that there is a threat to the peace, a breach of the peace or an act of aggression.[9] The effectiveness of this system, to an extent that the Charter's creators probably didn't foresee, has relied on the Security Council's political unity, which has been incomplete and variable at best. The Council authorized strong collective action against Iraq's invasion of Kuwait in 1990, and, controversially, against Libya in 2011, but has been unable to agree any comparable action against Russia's invasion of Ukraine in 2022, and has not done so due to Russia's 'permanent' seat and the accompanying veto.[10] It was not something new that the body tasked with enforcing the prohibition on force can be paralyzed when one of its permanent members is the aggressor, as Ukraine tragically had to prove with the Uniting for Peace resolutions of the General Assembly, though diplomatically important, they do not have the binding legal force that a Chapter VII Security Council resolution would have given.[11]

The scope of the right of self defence has produced its own jurisprudence, if one exists, that is contested. In the Nicaragua case, the International Court of Justice concluded that an armed attack on a state must be of a certain scale and impact to trigger the right to self-defence, as opposed to mere frontier incidents, and that even if the state does provide assistance to armed groups in another state's territory, this does not necessarily constitute an armed attack justifying a response of the right to self-defence.[12] The doctrine has been further challenged by the emergence of transnational non-state armed groups since the early 2000s, as Article 51 was formulated with the idea of an attack by another state in mind, and states hit by Nsas from or across their own borders have had to formulate new, if not universally accepted, interpretations of the doctrine to justify forced responses against Nsas operating within or across their borders.[13]

The customary law governing anticipatory or pre-emptive self-defence, meanwhile, still traces its basic formula to an 1837 incident far removed from contemporary armed conflict. The Caroline affair, in which British forces crossed into United States territory to destroy a vessel supplying Canadian rebels, produced the formula, articulated in the ensuing diplomatic correspondence between the two governments, that self-defence must be confined to situations where the necessity is instant, overwhelming, and leaving no choice of means and no moment for deliberation, with any resulting action kept strictly within the bounds of that necessity.[14] That nearly two-centuries-old formula, still cited as the touchstone for assessing anticipatory self-defence claims, illustrates a broader feature of this area of law: the Charter's own text addresses only the response to an armed attack that has already occurred, leaving the harder question of anticipatory or pre-emptive action to a body of customary doctrine considerably older, and correspondingly less settled, than the Charter framework it sits alongside.[15]

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[8] Charter of the United Nations (n 2) art 2(4); Military and Paramilitary Activities in and against Nicaragua (*Nicaragua v United States of America*), Merits, ICJ Reports 1986, 14, 100.

[9] Charter of the United Nations (n 2) arts 51, 39 and 42. See also; Ruys, T., *'Armed Attack' and Article 51 of the UN Charter: Evolutions in Customary Law and Practice*, Cambridge, Cambridge University Press, 2010.

[10] Gray (n 1) 350. See also; Ruys, T., *'Armed Attack' and Article 51 of the UN Charter: Evolutions in Customary Law and Practice*, Cambridge, Cambridge University Press, 2010.

[11] Ibid, 355. See also; Greenwood, C., *Essays on War in International Law*, London, Cameron May, 2006.

[12] [12]Nicaragua case *op. cit.* 103.

[13] Ibid. See also; Ruys, T., *'Armed Attack' and Article 51 of the UN Charter: Evolutions in Customary Law and Practice*, Cambridge, Cambridge University Press, 2010.

[13] Gray *op. cit.* 200.

[14]Jennings, R.Y., 'The Caroline and McLeod Cases', *American Journal of International Law*, Vol 32(1) 1938, 82.

[15]Gray *op. cit.* 165. See also; Dinstein, Y., *The Conduct of Hostilities under the Law of International Armed Conflict*, Cambridge, Cambridge University Press, 2016.

3. International Humanitarian Law and the Conduct of Hostilities

Where the jus ad bellum asks whether resort to force was lawful, international humanitarian law, the jus in bello, asks a separate and, crucially, unconditional question: how must hostilities, once underway, be conducted, regardless of which party bears responsibility for starting the conflict.[16] The four Geneva Conventions of 1949, together with their 1977 Additional Protocols, form the core of this body of law, supplemented by an extensive body of customary international humanitarian law that the International Committee of the Red Cross has painstakingly documented and that binds states regardless of treaty ratification.[17] Central to this framework are the principles of distinction, requiring parties to a conflict to distinguish at all times between combatants and civilians and to direct attacks only against the former; proportionality, prohibiting attacks expected to cause civilian harm excessive in relation to the concrete military advantage anticipated; and precaution, requiring feasible steps to minimize civilian harm even in the course of otherwise lawful military operations.[18]

Additional Protocol II (AP II) to the Geneva Conventions, along with Common Article 3, provides a basic level of protection for non-international armed conflicts: the prohibition on violence to life and person, the taking of hostages, and outrages upon personal dignity are all of particular relevance in the context of the overwhelming majority of contemporary armed conflicts, which are essentially internal as opposed to interstate in nature.[19] It was the landmark ruling of the ICTY Appeals Chamber in the Tadić case in 1995,[20] which helped to establish the standard definition of an armed conflict as an "armed use of force between States and between governmental authorities and organised armed groups, or between those groups within a State".[21]

Another, and growing, aspect of this body of law is the prohibition on certain weapons and methods of warfare, based on customary and treaty law. The 1996 Advisory Opinion of the International Court of Justice on the Lawfulness of the Threat or Use of Nuclear Weapons identified that there was no comprehensive and universal prohibition on nuclear weapons as such, but that, in general, such a threat or use would violate the principles and rules of humanitarian law applicable in armed conflict, although the International Court of Justice did not rule conclusively on whether, in extreme circumstances, a state's very survival could be at stake.[22] It is significant that the Court, sitting in 1996, could not give a definitive answer on this issue, and some questions of international security law are, perhaps inevitably, contestible even after judicial consideration by the highest forum.[23]

The principle of proportionality has been the source of such controversy in its application because it is precisely in times of active hostilities, and with incommensurable values and in a context of uncertain information, that the principle must be applied. Proportionality is a standard that must be applied by the commander and, subsequently, the investigators and courts, not with the benefit of hindsight, but based on what they could reasonably have known and anticipated at the time the targeting decision was made; which, in principle, provides an 'absorbing' measure of protection,[24] but is very difficult to apply to any specific contested incident, whether in Gaza, Ukraine or the North East Nigeria theatre. Remarkably, the ICRC's own study on customary law, drawing on the state practice and *opinio juris* of more than 150 jurisdictions, confirms that, even as a matter of ordinary treaty, all these principles – and distinction, in particular – are now binding on all parties to an armed conflict.[25]

4. Classifying Contemporary Conflicts: A Framework Under Strain

Much of international humanitarian law's practical application turns on a threshold classificatory question: is a given conflict international or non-international in character, since the two categories trigger meaningfully different bodies of applicable rules.[26] This classification has become considerably harder to perform cleanly in contemporary practice. Conflicts increasingly feature elements of both categories simultaneously or in close succession, external states arming, training or directly supporting one side of what began as an internal insurgency, private military contractors operating alongside, but not formally as part of, a state's own armed forces, and organised armed groups fragmenting, merging or

[16]Shaw *op. cit.* 1160. See also; Sivakumaran, S., *The Law of Non-International Armed Conflict*, Oxford, Oxford University Press, 2012.
[17]Shaw *op. cit.* 1165.
[18]Shaw *op. cit.* 1170.
[19] Geneva Convention (n 3) common art 3; Additional Protocol II (n 3).
[20] *Prosecutor v Tadić,* ICTY Appeals Chamber, Case No IT-94-1-AR72, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para 70.
[21] Werle, G. and Jeßberger, F., *Principles of International Criminal Law*, Oxford, Oxford University Press, 2020.
[22] Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, ICJ Reports 1996, 226, 244-245.
[23] Ibid. See also; Dinstein, Y., *The Conduct of Hostilities under the Law of International Armed Conflict*, Cambridge, Cambridge University Press, 2016.
[24] Shaw *op. cit.* 1175.
[25] Sivakumaran, S., *The Law of Non-International Armed Conflict*, Oxford, Oxford University Press, 2012.
[26]Shaw *op. cit.* 1180. See also; Cassese, A., Jeßberger, F., Cryer, R. and Dé, U., *International Criminal Law*, London, Routledge, 2013.

pledging allegiance to transnational movements in ways that complicate any straightforward determination of who, precisely, is a party to the conflict.[27]

The conflict in North East Nigeria illustrates these classificatory difficulties with particular clarity. What began as an internal insurgency by Boko Haram against the Nigerian state has, over more than a decade, drawn in Chad, Niger and Cameroon through the regional Multinational Joint Task Force, generated a formal territorial and ideological split within the insurgency itself between factions aligned with, and opposed to, the Islamic State, and produced patterns of cross-border displacement and armed engagement that sit uneasily within either the purely international or purely non-international categories the Geneva Conventions were drafted to distinguish.[28] Okorie's analysis of accountability for atrocities committed during this conflict observes that the persistent violence across Nigeria, spanning the Boko Haram insurgency, banditry, and communal confrontations, has generated patterns of harm that increasingly resemble crimes against humanity under international law, even as the fragmented and multi-actor character of the violence has made legal characterization, and consequently accountability, considerably more difficult to achieve in practice than the applicable legal categories might suggest.[29]

Syria presents a still more extreme illustration of this classificatory strain. A conflict that began in 2011 as an internal uprising against the Assad government evolved, within several years, into a conflict simultaneously featuring elements of non-international armed conflict between the government and multiple domestic armed groups, an international armed conflict by virtue of direct foreign military intervention on multiple sides, Russia, Iran and allied militias supporting the government, a US-led coalition and Turkey intervening against, first, the Islamic State and, in Turkey's case, Kurdish forces, and a transnational counter-terrorism campaign against the Islamic State that itself straddled both classificatory categories depending on which party's conduct was in question.[30] Applying a single coherent body of humanitarian law to a conflict of this layered complexity has proven, in practice, extraordinarily difficult, not because the underlying legal principles are unclear in the abstract, but because determining precisely which principles apply to which actor, in which theatre, at which moment, has increasingly exceeded the classificatory capacity the 1949 and 1977 instruments were designed to provide.

5. Judicial and Institutional Enforcement

International security law is effective in part because the substantive provisions in the law are clear, but also because there is an institutional apparatus in place to enforce the law and it is here that the normative good intentions of international law and its practical reality diverge. The International Court of Justice, which has considerable authority to rule on state responsibility for breach of the jus ad bellum, e.g. in the Nicaragua case and the Bosnian Genocide case in the context of the Genocide Convention, is subject to state acceptance of its jurisdiction and has no independent mechanism for enforcement; the compliance of its judgments depends, ultimately, on action by the Security Council under Article 94 of the Charter of the United Nations, which is itself subject to the veto of the states most likely to be found in breach of that convention.[31] In the Bosnian Genocide case, the Court concluded that Serbia breached its duty to prevent the Srebrenica genocide and, although it did not consider the genocide itself to be an act of the Serbian state, its careful and evidence-based reasoning pleased few of those on both sides of a case that took fourteen years to resolve.[32]

The two ad hoc international criminal tribunals of the 1990s, the ICTY in the former Yugoslavia and the ICTR in Rwanda, were an important institutional development that marked the emergence of a permanent international judicial body to handle the punishment of individuals for acts of atrocity during an armed conflict, for the first time since Nuremberg, when the issue of the punishment of individuals for acts of atrocity during an armed conflict was not left to the victors' justice or to domestic political will.[33] The successor to this, the permanent International Criminal Court created under the Rome Statute in 1998, continued this model, but on a permanent non-ad hoc basis, and with jurisdiction over genocide, crimes against humanity, war crimes, and the crime of aggression itself, added in 2010.[34] While the Court's power is not restricted in who it can reach, its jurisdiction remains limited in scope: and while recent cases have seen the Court issue arrest warrants against the leaders of a number of states, some of the most serious conflicts of our time, such as Syria

[27]Gray *op. cit.* 210. See also; Werle, G. and Jeßberger, F., *Principles of International Criminal Law*, Oxford, Oxford University Press, 2020.
[28]Gray *op. cit.* 215.
[29]Okorie, H., 'Examining Crimes Against Humanity and Individual and Corporate Accountability in the Armed Conflict and Violence in Nigeria', *Nnamdi Azikiwe University Journal of Private and Property Law*, Vol 12, 2025, 1.
[30]Gray *op. cit.* 220.
[31] Charter of the United Nations (n 2) art 94; Shaw (n 4) 1050.
[32] Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro), Judgment, ICJ Reports 2007, 43, 166.
[33] Shaw *op. cit.* 435. See also; Cassese, A., Jeßberger, F., Cryer, R. and Dé, U., *International Criminal Law*, London, Routledge, 2013.
[34]Rome Statute of the International Criminal Court, 17 July 1998, 2187 UNTS 90, art 5.

(Russia has blocked Security Council referral) and, for other jurisdictional reasons, the early years of the war in Ukraine, have largely eluded its grasp.[35]

It is a pattern that is repeated throughout the institutional spectrum with highly narrow interpretations of the substantive law and enforcement. Whereas, in some areas regional mechanisms have been filling the void – African Union-backed hybrid tribunals and domestic prosecutions have been launched against individuals for the crimes committed in the North East Nigeria conflict; but Okorie's evaluation indicates that these remain under-resourced and under-resolved when compared to the scale of the crimes against humanity alleged in the region.[36] Hybrid tribunals with both international and domestic components, like the Special Court for Sierra Leone, and the increasing acceptance of universal jurisdiction prosecutions in domestic courts that are willing to try anyone they have on their territory for atrocity crimes committed anywhere, provide a second – although still limited – path for accountability, outside the constraints of the ICC's jurisdiction, and a number of European domestic courts have exercised universal jurisdiction over the Syrian conflict, at least in the specific context of trying individuals who were present in their territory for committing atrocities there.[37] The overall impression is of a much more effective international legal order in which it is possible to look back on violations and classify and condemn them afterwards, rather than to actually prevent violations and to hold responsible those who are most responsible within a realistic time frame.

6. The Responsibility to Protect and Contemporary Crises

The Responsibility to Protect doctrine, developed by the International Commission on Intervention and State Sovereignty in 2001 and endorsed in narrowed form at the 2005 World Summit, emerged in significant part as a response to precisely this enforcement gap, seeking to establish a clearer, if still Council-dependent, basis for collective international action where a state manifestly fails to protect its population from genocide, war crimes, ethnic cleansing or crimes against humanity.[38] The doctrine's most direct operationalization came in March 2011, when the Security Council invoked civilian protection concerns in authorizing all necessary measures in Libya under Resolution 1973, a rare instance of the Council agreeing on coercive action explicitly framed in Responsibility to Protect terms.[39]

The aftermath of that intervention, however, illustrates the doctrine's continuing fragility as a practical tool of international security law. The expansion of NATO's Libyan operations beyond the stated civilian protection mandate into what several Council members regarded as unauthorized regime change generated lasting distrust among states, particularly Russia and China, whose subsequent willingness to countenance Responsibility to Protect-framed Council action, most consequentially with respect to Syria, has been markedly diminished as a direct consequence.[40] The result has been a doctrine that remains normatively significant, shaping how atrocity crises are discussed and assessed internationally, while proving practically inert whenever the Council's permanent members disagree about the underlying political stakes, precisely the circumstance in which the doctrine's protective function would matter most.

The doctrine's continuing invocation in diplomatic and civil society advocacy, notwithstanding this practical inertness, is itself telling. Successive UN Secretary-General reports on the Responsibility to Protect's implementation have continued to affirm the doctrine's three pillars and to catalogue instances of atrocity prevention success, typically involving early diplomatic engagement and capacity-building rather than coercive military action, suggesting that the doctrine's most durable practical contribution may ultimately lie in its first and least controversial pillar, prevention, rather than in the coercive third-pillar response that generated the greatest political controversy following Libya.[41] This is a more modest legacy than the doctrine's original architects likely anticipated, but it is not a negligible one, and it points toward the preventive strategies this article returns to in its concluding sections.

7. Case Studies: Illustrating the Gap between Norm and Enforcement

The North East Nigeria conflict against Boko Haram and its Islamic State-aligned successor faction illustrates the practical difficulty of translating a well-developed body of applicable humanitarian law into effective protection on the ground. Common Article 3 and Additional Protocol II unambiguously prohibit the group's documented practices, including the killing and abduction of civilians, the recruitment of child soldiers, and the use of sexual violence as a tactic of war, yet more than a decade of sustained non-international armed conflict has produced only limited individual accountability, whether through the Nigerian domestic justice system or through any international mechanism, a gap

[35] Rome Statute *op. cit.* arts 12 and 13.
[36] Okorie *op. cit.* 8.
[37] Shaw *op. cit.* 440. See also; Cassese, A., Jeßberger, F., Cryer, R. and Dé, U., *International Criminal Law*, London, Routledge, 2013.
[38] International Commission on Intervention and State Sovereignty (ICISS), The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty, Ottawa, International Development Research Centre, 2001, xi; 2005 World Summit Outcome, UNGA Res 60/1, 24 October 2005, paras 138-139.
[39] UN Security Council Resolution 1973, 17 March 2011, UN Doc S/RES/1973.
[40] Gray *op. cit.* 360.
[41] ICISS *op. cit.* xi.

Okorie attributes in substantial part to the fragmented, multi-actor character of the violence and the weak institutional capacity available to investigate and prosecute atrocities occurring across a vast and insecure operational theatre.[42]

The conflict's regional dimension compounds these difficulties still further. Because Boko Haram and its Islamic State-aligned successor faction operate across the porous borders of Nigeria, Chad, Niger and Cameroon, accountability efforts must contend not only with weak domestic institutional capacity within any single state but with the jurisdictional and evidentiary complications inherent in prosecuting conduct that spans multiple national legal systems, each with its own procedural rules, evidentiary standards, and political appetite for pursuing sensitive prosecutions against security force personnel as well as insurgents.[43] The Multinational Joint Task Force's primarily military mandate has, moreover, left the accountability function chiefly to individual member states acting largely in isolation from one another, rather than through any coordinated regional judicial mechanism comparable to the hybrid tribunals that have, in other contexts, offered a more institutionally coherent response to conflicts spanning multiple national jurisdictions.[44]

Syria offers perhaps the starkest illustration of institutional paralysis available anywhere in contemporary practice. Documented violations, including the use of chemical weapons prohibited under customary international humanitarian law, indiscriminate attacks on civilian infrastructure, and the widespread use of torture and enforced disappearance, have been extensively catalogued by UN commissions of inquiry and civil society investigators, yet Russia's repeated exercise of its Security Council veto has foreclosed both binding collective action and International Criminal Court referral throughout more than a decade of documented atrocity.[45] The war's eventual winding down owed far more to shifting battlefield and regional political dynamics than to any international legal mechanism, a sequence of events that offers little comfort to those who might hope international law functions as a meaningful constraint on the conduct of protracted internal conflict.

Cyber operations add a further, still more unsettled, layer to this classificatory strain. States have increasingly deployed cyber capabilities alongside, or in place of, kinetic military action, disrupting infrastructure, disabling command systems, or conducting espionage in ways that may or may not cross the threshold of an armed attack or armed conflict depending on the severity and effects of the operation in question, a threshold question the drafters of the Geneva Conventions had, self-evidently, no occasion to contemplate.[46] The Tallinn Manual process, a sustained effort by an international group of legal experts to apply existing international law by analogy to cyber operations, has offered influential, though non-binding, guidance on how these questions might be resolved, concluding that a cyber-operation can constitute a use of force or even an armed attack where its scale and effects are comparable to a kinetic operation that would itself cross that threshold, while leaving considerable uncertainty about precisely where that threshold lies in practice.[47] Whether this analogical approach can bear the weight increasingly placed upon it, as cyber operations become a routine feature of contemporary interstate friction rather than an exceptional occurrence, remains one of the more consequential open questions in the entire field.

Ukraine, finally, illustrates both the continuing normative force and the practical limits of the jus ad bellum framework in the starkest possible terms. Russia's 2022 invasion constitutes about as unambiguous a violation of Article 2(4) as international law is capable of identifying, a conclusion echoed by the overwhelming majority of the UN General Assembly in successive resolutions condemning the aggression, and the International Criminal Court has, notwithstanding jurisdictional complexities, issued arrest warrants against senior Russian officials in connection with the conflict.[48] Yet Russia's Security Council veto has ensured that no binding Chapter VII response has been possible, and while extensive multilateral sanctions and military assistance to Ukraine demonstrate that international law's normative condemnation carries real, if indirect, practical consequence, the core Charter mechanism for collectively enforcing the prohibition of force against a permanent Council member has proven, precisely as its structural design would predict, unable to function at all.

8. Evaluating Effectiveness: Achievements and Persistent Weaknesses

International laws governing the twenty-first century have made some progress when viewed as a whole. It has not prevented interstate aggression, but it has established an unusually clear and widespread normative baseline to measure aggression against, and to which nearly everyone in the General Assembly has referred in their response to Ukraine, a

[42]Okorie *op. cit.* 10.
[43]Okorie *op. cit.* 12.
[44]Okorie *op. cit.* 14.
[45]Gray *op. cit.* 370.
[46]Shaw *op. cit.* 1190.
[47]Schmitt, M.N. (ed.), Tallinn Manual 2.0 on the International Law Applicable to Cyber Operations, 2nd ed., Cambridge, Cambridge University Press, 2017, rule 71.
[48]Rome Statute *op. cit.* art 8 bis; Gray *op. cit.* 375.

norm with a continuing and significant force even when binding enforcement cannot be provided.[49] The substantive rules of international humanitarian law, on the other hand, are not only well-known but also well-documented and gradually have been applied, albeit with varying degrees of consistency, to non-international armed conflicts, well outside the scope of the law of armed conflict, before the mid-twentieth century; this is real and incremental progress from which there is no room for complaint. The permanent International Criminal Court, however its limitations, is an institutional improvement over the ad hoc, case by case tribunals that preceded it, and it marks a new place of the expectation of individual criminal responsibility for committing outrage in the heart of the international legal order, instead of being an exceptional response to the end of a few particularly egregious wars.[50] The steady, although slow, increase in the number of judges and judges' availability since 1998 and the medium-term increase in the normalization of universal jurisdiction prosecutions in domestic courts (despite no single institutional breakthrough) gives cause for proud, incremental progress towards accountability, even when juxtaposed with the more dramatic institutional failures reported elsewhere in this article.[51]

But the glaring vulnerabilities and gaps are grouped together around a single structural weakness: the need, at critical moments, to rely upon consent or acquiescence of the very states most likely to be involved in the original violation. The veto, which was required to ensure such great-power participation in the UN system at its founding in 1945, has become the most significant obstacle to the UN's ability to ultimately compel collective response to violations of jus ad bellum, with Ukraine serving as a case study in this respect like no other.[52] The ICC's reliance on state party consent, or Council referral, to exercise its jurisdiction has, likewise, left some of the most severe current wars, in particular Syria, almost completely outside the ICC's reach. Yet despite its normative importance, the RtoP remains – in operational terms – nothing more than a new and alternate way to describe that which the Security Council would, in any case, need to approve by making use of its normal Chapter 7 authorization mechanisms – all of which can be vetoed by the same member of the Security Council that was the one to initiate the RtoP concept.[53]

A second, more subtle, and more important weakness is the significant disconnect between the sophistication of modern conflict classification theory and the state of the practice of under-resourced domestic and regional institutions in applying that theory in practice, especially in countries with long-term internal conflicts. The limited practical protection offered by a body of law that can make fine distinctions between international and non-international armed conflicts, direct and indirect participation in hostilities, and lawful and unlawful targeting decisions is illustrated clearly in North East Nigeria, where the institutions tasked with applying the law, whether local, regional or international, are under-resourced, under-accessed and politically not independent.[54]

This diffuse weakness has a further dimension worth naming: the asymmetry in whose conflicts receive sustained international legal and institutional attention in the first place. Well-resourced international media coverage, diplomatic priority, and investigative capacity have tended to concentrate disproportionately on conflicts involving major powers or occurring in regions of particular geopolitical significance, while protracted internal conflicts in less strategically prominent regions, the Lake Chad Basin among them, have historically received comparatively limited sustained international legal attention relative to their human cost, notwithstanding the existence of a formally uniform body of applicable law that draws no such distinction.[55] This unevenness is not a formal feature of the applicable legal rules, which apply without geographic or political qualification, but it is a consistent feature of how those rules have actually been resourced, investigated and enforced in practice, and it represents a further, largely unaddressed, dimension of the effectiveness gap this article has sought to document.

9. Conclusion and Recommendations

This article has examined the effectiveness of international legal responses to contemporary armed conflict in both the *jus ad bellum* and *jus in bello* dimensions, the judicial and quasi-judicial institutions that have been established to implement these two, and the Responsibility to Protect (R2P) doctrine which has been created to bring these two together. Drawing on the North East Nigeria conflict, the Syrian civil war and war in Ukraine as recurring cases, the analysis argues that the fundamental contribution of international law is, at best, moral, and more accurately, normative, and that

[49] Shaw *op. cit.* 1200. See also; Broomhall, B; *International Justice and the International Criminal Court: Between Sovereignty and the Rule of Law,* Oxford, Oxford University Press, 2004.
[50] Ibid. See also; Broomhall, B; *International Justice and the International Criminal Court: Between Sovereignty and the Rule of Law,* Oxford, Oxford University Press, 2004.
[51] Sayapin, S. and Tsybulenko, E; *The Use of Force against Ukraine and International Law: Jus Ad Bellum, Jus In Bello, Jus Post Bellum,* The Hague, T.M.C. Asser Press, 2018.
[52] Shaw *op. cit.* 445.
[53] Ibid. See also; Tsilonis, V., *The Jurisdiction of the International Criminal Court,* 2nd ed, Cham, Springer, 2024.
[54] Gray *op. cit.* 380. See also; Broomhall, B., *International Justice and the International Criminal Court: Between Sovereignty and the Rule of Law,* Oxford, Oxford University Press, 2004.
[55]Okorie *op. cit.* 16. See also; Sayapin, S. and Tsybulenko, E., *The Use of Force against Ukraine and International Law: Jus Ad Bellum, Jus In Bello, Jus Post Bellum,* The Hague, T.M.C. Asser Press, 2018.

the most salient feature of that law is the exceptionally transparent set of substantive rules concerning when force can lawfully be used and how hostilities must be conducted, matched with a process for enforcing that law that remains, at its most critical moments, captive to the political unity of a Security Council structurally unable to act against its own permanent members.

Three recommendations follow. States should continue to seek voluntary limits on the use of the veto in mass atrocity situations, and should understand that one key problem in the effective use of the veto is institutional design, not any shortage of substantive law. Second, the scope of the ICC's accessions, its referral policy and the ongoing evolution of complementary domestic and regional accountability mechanisms, especially in protracted non-international armed conflicts where there has been a lot of documentation of atrocity, but limited individual accountability, should be expanded. Third, ongoing investment in the capacity of regional and domestic actors to implement on the ground the international humanitarian law's substantial achievement, not continued refinement of the law itself, is the most near-term way forward in bridging the gap between international law and its uneven effect on the conduct and results of modern armed conflict.

None of these recommendations will show a quick fix for the structural weaknesses that have been found in this article. While the Security Council's veto is unlikely ever to be formally withdrawn, the scope of the International Criminal Court remains disputed in the near future and institutional capacity deficits in conflicts like North East Nigeria won't be filled swiftly, even if sufficient international focus and resources are brought to bear. The analysis presented in this article, however, indicates that these weaknesses are not doctrinal in nature, but are institutional and political, and that the way forward towards more effective and more adequate international legal responses to contemporary armed conflict lies in strengthening the mechanisms of enforcement, accountability and prevention which are already in place, not in any fundamental rewriting of the substantive rules which those mechanisms are designed to apply.