

CICR

Networks in non-international armed conflicts : crossing borders and defining "organized armed group" / Peter Margulies

Document type:	Article
Title:	Networks in non-international armed conflicts : crossing borders and defining "organized armed group"
Author zone:	Peter Margulies
Host item entries:	International law studies,
Languages:	English
General Note:	Source : https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=1045&context=ils (last accessed on 22.06.2020)
Abstract:	<p>The author examines the definition of organized armed groups (OAGs) under the law of armed conflict and examines how that definition relates to Al Qaeda and the ability for States to use force against them. Additional Protocol II to the Geneva Convention defines OAGs narrowly to include groups that control part of a State's territory. The author argues for a broader interpretation of OAGs and as an example points to case law from the International Criminal Tribunal for the former Yugoslavia and the Inter-American Commission on Human Rights. A broader definition would allow States to target individuals performing a continuous combat function, as opposed to IHLR's narrower, concrete imminent threat to the life of an individual requirement. A broader definition would also allow OAG members to be prosecuted by international tribunals rather than under municipal law. The author argues that Al Qaeda has sufficient organizational structure to be considered an OAG due to: the existence of bureaucracy, discipline mechanisms, monitoring and documentation, and the ability to assess performance. Furthermore, Al Qaeda has synergistic relationships with, and strategic influence over, other regional groups, including al Shabab and Al Qaeda in the Arabian Peninsula. Al Qaeda's OAG status is sufficient to justify the targeting of these affiliate groups. [Summary by students at the University of Toronto, Faculty of Law (IHRP)]</p>
Authors:	Margulies, Peter
Keyword in English:	NON-STATE ARMED GROUP DEFINITION COMBATANT CASE LAW IHL (INTERNATIONAL HUMANITARIAN LAW) ADDITIONAL PROTOCOL II
Keyword in French:	GROUPE ARME NON ETATIQUE DEFINITION COMBATTANT JURISPRUDENCE DIH PROTOCOLE ADDITIONNEL II