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### A ghost in the ivory tower : positivism and international legal regulation of armed opposition groups / Astrid Kjeldgaard-Pedersen

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Abstract:	<p>Why do scholars, who generally acknowledge the international legal personality of non-State entities, still question the bindingness of the law of non-international armed conflict on insurgents? This article examines the relationship between the two dominant positivist conceptions of international legal personality and the rights and obligations of insurgents as a matter of positive international law. First, the article illustrates that the evolution of the law of non-international armed conflict corroborates Hans Kelsen's idea that the international legal personality of an entity, be it a State, an armed opposition group, or an individual, is solely contingent upon interpretation of international norms. Second, it shows that the traditional perception of States as exclusive subjects of international law – though never reflected in positive norms governing non-international armed conflict – continues to influence the current debate on the theoretical underpinnings for binding insurgents. The orthodox 'States-only' conception of international legal personality is seemingly so ingrained in the minds of contemporary international lawyers that they inadvertently rely on it when faced with international legal regulation of non-State entities. Finally, the article addresses the implications of these findings for the overall question of international legal obligations of non-State actors.</p>
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