Book Reviews

Zakaria Daboné


In *Le droit international relatif aux groupes armés non étatiques*, which is based on the author’s PhD thesis defended at the University of Geneva, Zakaria Daboné contributes to the ongoing study of non–state armed groups’ (NSAG) behavior. In a most novel, interesting and compelling way, Daboné tests the question of the place of the foresaid non–state actors within the international realm. He does not disappoint. It would not be accurate, however, to frame the book’s scope and influence as only relating to such entities. Rather, the book touches upon wider issues of public international law and is certainly the most insightful study that exists in relation to NSAG as such.

In a meticulously researched and very well–written book, Daboné focuses on certain areas of the legal regime which, according to him, are most relevant or more frequently employed when one refers to the behavior of NSAG. These are *jus in bello*, *jus ad bellum*, human rights, international responsibility and the sources of international law. This selection is defensible, and the issues are painstakingly investigated in detail. Broadly speaking, two subjects are addressed by Daboné. In the first part of the book he looks at the quest of NSAG to have their place in international law (at 7), while the second part is related to the changing nature of the normative framework with respect to the foresaid non–state entities (at 199). His view, certainly noteworthy, suggests that international law appears to be between rejection and interested consideration when it refers to NSAG.

Still, Daboné’s starting point is that armed conflicts involving the participation of NSAG occur more frequently than those with an inter–state character. In a section entitled “Contextual and Conceptual Aspects” (*Aspects contextuels et conceptuels*, at 9), he goes through several examples and concludes that the relative rarity of international armed conflicts nowadays is due to the prohibition on the use of force in international law, as enshrined in the United Nations Charter. This is contrasted to the inexistence of such a rule regarding NSAG.
Daboné knows that States are indispensable for international law to exist. He recognizes this by devoting an entire sub-section to showing the state-centric nature of this regime (*Chapitre* 2, at 29). Yet, he concludes that the increasing presence of NSAG currently creates a turbulent scenario since they act in an environment governed by a law that rejects them (at 62).

As regards specifically to NSAG, Daboné innovatively raises the lack of a uniform definition of what an armed group is by splitting the notion into two *Chapitres*. On the one hand, Chapter I (at 63) defines NSAG as such, that is, considering the actor as an abstract entity. It is explained that these are groups of people operating in a context of violence, which must be armed and “is expected to characterize an armed conflict” (at 63). He then affirms that if the group is not considered a NSAG, even if it uses armed violence, an armed conflict would not exist and therefore international humanitarian law (IHL) would not be applicable. This is interesting because Daboné seems to suggest that the constitution of the group occurs before the conflict is triggered. If NSAG only exist to “make war”, as he also recognizes in the same sub-section, then there could be a temporal gap. Yet, instead of expanding on this issue, he mainly relies on IHL to look for NSAG’s features. Despite this seems to be the obvious, Daboné considers the complete range of sources. On the other hand, Chapter II (at 93) goes through the notion of NSAG’s members. In order to do so, the author identifies the sources of IHL that may clarify who can be part of a NSAG. This is essentially based on the definition of direct participation in hostilities, which is elucidated by Daboné by affirming that someone is a member of NSAG when, without belonging to the armed forces of the relevant state, can be attacked at any time (at 93).

*Titre* 2 of the first part of the book analyzes how NSAG intervene in international law and the consequences of these interventions (at 125). Before embarking in the specific sources of law that create obligations upon these entities, Daboné remarkably refers to the international subjectivity topic (at 128–136). There, he proposes that NSAG can be considered as limited subjects upon whom certain obligations have been imposed by States. According to the author, this is also linked to their participation in the creation of certain tools, such as unilateral declarations and special agreements, to their possible international responsibility, and finally to their temporal duration, that is, considering that their existence lasts only as long as the armed conflict. In this sub-section Daboné also suggests the possibility of considering NSAG as being internationally responsible for breaches of international law. This is based on two different possibilities: i) that a State is responsible for breaches committed by a NSAG (at 169); and ii) the responsibility of these actors as such (at 184).