Canadian Council on International Law
Conseil canadien de droit international

The Role of ISIS and the Future of International Law: Chaos or Consolidation?
Session 3B – Thursday, November 5, 15:15-17:00

Participants
Chair - Micahel D. Bell, Carleton University & University of Windsor
Noah Weisbord, Florida International University
Charles Jalloh, Florida International University
Bessma Momani, University of Waterloo

This panel examined the challenges posed by the rise of the Islamic State in Iraq and the Levant (ISIS) to our current post-Westphalian state-centric model of international law. In a world of ever increasing intrastate conflict, today's international law fails to take into account the role of non-state actors such as ISIS, non-governmental organizations (NGOs) and individuals.

Panel Chair, Professor Bell, began the discussion by providing context and an overview of the recent history in the Middle East. Professor Bell then raised several problems for the panel, including the dichotomy between civilians and fighters, non-state versus stat eactors, a rules-based system lacking enforcement, the distinction between states and proto-states, and finally the problem of states that cannot control the areas they purport to govern. Professor Bell posits that in an increasingly chaotic world, we must strengthen the rule of international law, including the law of war, the law in war, international criminal law and international legal theory, in order to tackle present day challenges.

Professor Weisbord provided an overview on the area of jus ad bellum, which represents the branch of law that defines the acceptable justifications for a state to engage in war. The starting point is the UN Charter, which provides a prohibition on the use of force with two exceptions: (1) force authorized by the UN Security Council in response to a threat to international peace & security; and (2) self-defence (individual or collective). Professor Weisbord went on to examine other possible justifications for the use of force that may or may not fall within these exceptions, including: protection of nationals; hot pursuit; self-determination allowing states to assist non-state movements in removing a regime; and humanitarian intervention.

Professor Jalloh introduced the current international law system and revealed its primary deficiencies. International law is really a state run system created for and by states. However, over time there has been a clear shift in the players involved in conflict. Today, states are often not the key actors in conflict; most often, non-state actors are at the center of conflict. Professor Jalloh believes that the current legal regime might be inadequate to address to fundamental shift in conflict that we've witnessed as non-state actors are not bound to these rules. Professor Jalloh examines the possibility of applying the law of armed conflict to the current war against ISIS, and then looks at how the International Criminal Court could seize jurisdiction of the conflicts in Syria and Iraq.

Professor Momani, a Middle East expert, provided a strong overview of ISIS and a realist view on the extent of their threat. ISIS is a force of only ~50,000, but it has wreaked havoc & fear on the

populations and the communities it governs. ISIS is surviving today on a lot of oil money and on kidnapping and ransom. Social media has been a crucial part of ISIS' recruitment, where it lures youth with a powerful narrative for membership. ISIS has more than 70,000 Twitter accounts, which has fueled debate on imposing new limits on freedom of speech online. Professor Momani believes that ISIS' recruitment techniques could lead to an increase in the amount of ISIS inspired terrorism in the West.

The panel continued with discussion amongst the panelists on a variety of topics including the Sunni-Shia divide in the Middle East, incorporating non-state actors, NGOs and individuals into tomorrow's international legal regime, the suceptability of international law to advance state interests of the powerful, and more. This discussion was followed by questions from the floor.