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Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Saul

Killing "Narco-Terrorists" at Sea:

The Legality of Military Attacks on Criminal Groups and Drug Trafficking under International Human Rights Law and Other Applicable International Law

Briefing Note, September 2026

Introduction

In one year since September 2025, the United States military has reportedly attacked 68 vessels, beyond the territorial sea of any State, which allegedly involved drug trafficking by criminal groups designated as "terrorist" under national law, killing at least 223 people. The attacks have been defended as lawful national self-defence and under international humanitarian law. Targeting "narco-terrorists" at sea is a new tactic that goes beyond prior practices of maritime interception and law enforcement. Particularly given its precedent-setting character and impact on the human right to life, it warrants close scrutiny for its consistency with international law. Military cooperation against drug cartels and gangs on land has also increased in the Americas, including under the "Shield of the Americas" initiative.

This Briefing Note examines how international human rights law governs such attacks at sea, interpreted in conjunction with other relevant international law. It finds that such attacks amount to serial extrajudicial killings in violation of the right to life, being unjustified in national or personal self-defence or under international humanitarian law, the international law of the sea, narcotics suppression conventions, or international counter-terrorism law. It also briefly addresses the legal and policy implications of increased military cooperation on land and sea against criminal groups in the Americas.

This Briefing Note consolidates and explains the extensive prior engagement on these issues by Special Procedures mandate holders since 2025, including through: communications and associated public statements; thematic reports to and interactive dialogues at the General Assembly and Human Rights Council; sessions of the Commission on Narcotic Drugs and the Commission on Crime Prevention and Criminal Justice; a detailed legal submission to and thematic hearing of the Inter-American Commission on Human Rights; and engagement with national institutions.

Wider, related human rights concerns about classifying and responding to organized crime as "terrorism" are addressed in the Special Rapporteur's 2026 report to the General Assembly (A/81/227).

A. Illegal uses of extraterritorial force

1. Since September 2025, the United States has pursued a military response to alleged "narco-terrorism" in the Americas. To August 2026, it reportedly killed at least 223 individuals in 68 military strikes on vessels outside territorial seas (in the Caribbean Sea and Pacific Ocean) that were allegedly trafficking illicit drugs towards the United States, and has typically claimed responsibility. At least three more vessels were allegedly attacked and sunk in suspicious circumstances without any claim of responsibility, including the Ecuadoran fishing vessels *Fiorella* in January 2026 (eight of ten crew members have disappeared, and the case has been raised by the United Nations Committee on Enforced Disappearances[1]) and *Negra Francisca Duarte II* and *Don Maca* in March 2026. The crews of the latter vessels were reportedly arbitrarily detained and ill-treated by alleged United States military forces, transferred to El Salvadoran authorities, and returned to Ecuador. An Ecuadoran prosecutor investigating the disappearance of the three vessels was allegedly murdered by an unknown assailant on 14 June 2026.

2. The President informed Congress that in attacking vessels, the United States was exercising "self-defence and defence of others against the ongoing attacks by… designated terrorist organizations" and that there is "a non-international armed conflict" governed by the law of armed conflict.[2] He asserted that the transnational cartels "illegally and directly cause the deaths of tens of thousands of American citizens each year". The Presidential order of January 2025 designating certain cartels as terrorist organizations describes them as threats to national territorial integrity, safety and security and the stability of the international order in the Western Hemisphere.[3] The Government has not published the full domestic and international legal bases for the strikes, although there are reports of a Presidential order of August 2025 and a Department of Justice Office of Legal Counsel memorandum of mid-2025. The United States' 2025 National Security Strategy also highlights the threat of "narco-terrorists". Further, there are reports of a continuing Presidential "finding" from the 1980s authorizing counter-narcotics covert action by the Central Intelligence Agency.

3. The United States military attacks are, however, contrary to international law, violate the human right to life, and plausibly constitute crimes against humanity. They have been condemned by the United Nations High Commissioner for Human Rights, United Nations independent experts, the President of the International Narcotics Control Board, the Inter-American Commission on Human Rights, many international lawyers, and civil society actors.[4]

1. No right of self-defence against alleged drug trafficking

4. There is no right to use force in self-defence against the criminal groups listed as terrorist organizations. Firstly, even assuming that the vessels and crew attacked were members of the criminal groups listed as terrorist, such organizations have not mounted any "armed attack" on the United States so as to trigger a right of self-defence. The United States has not claimed that the vessels and crew were militarily armed and possessed the intent and capacity to launch military attacks on it of "scale and effects" or gravity of an attack by conventional armed forces.[5] Deaths from illicit drugs are not assimilable to an armed attack under international law. An armed attack does not "catch all" threats to life from abroad, but focuses on kinetic armed or equivalent attacks. Transporting illicit drugs does not qualify. Such acts are also too causally distant to be regarded as an attack, since deaths may result only after a chain of intervening events, including distribution, sale, and consumption in a manner that is excessive or otherwise unsafe; and most drug use does not result in death or serious injury.[6] The above analysis is true even if all of the listed cartels' activities are assessed in aggregate rather than individually, or if the threshold for an armed attack were lowered to encompass any use of force, since drug trafficking is not force at all.

5. Secondly, international law only permits self-defence against non-State actors sent by a State.[7] There appears to be no factual basis for assertions that some listed groups were armed proxies sent by Venezuela.[8] After the United States listed Tren de Aragua as a terrorist organization in February

2025, in March 2025 the President invoked the Alien Enemies Act to claim that Tren de Aragua was engaged in an "invasion" or "predatory incursion" against the United States on behalf of the Venezuelan Government. In November 2025, the United States listed Cartel de los Soles as terrorist and claimed that it was led by the Venezuelan President and senior officials. Various United States courts have rejected the Government's claims that criminal violence amounts to an invasion or predatory incursion.[9] In declaring a non-international armed conflict with the group under international humanitarian law, the United States appears to recognize that it is not subject to an attack by a State. If the group was truly sent by Venezuela under the law on the use of force, such degree of control would evidence that the group "belonged" to Venezuela for the purpose of establishing an international armed conflict.[10] Even if Venezuela had sent the group, the insurmountable legal barrier remains: drug trafficking is not equivalent to a military attack.

6. Thirdly, the United States' attacks could not be considered necessary or proportionate in response to any supposed armed attack, since alternative means were available to effectively respond to the threat. These included, for example, the maritime interception of vessels, which the United States is capable of conducting and the Secretary of State has acknowledged is feasible, as well as other domestic and transnational law enforcement and border security measures and cooperation.

7. While not authorized in self-defence, the attacks are not violations of the prohibition on the use of force under article 2(4) of the United Nations Charter or customary international law. The prohibition applies between States "in their international relations" and accordingly does not cover the use of force by a State against stateless vessels and/or private individuals aboard outside territorial seas. Due to the secrecy surrounding the attacks, it is unclear whether some vessels were not stateless, or whether any strikes were conducted in the territorial waters of another State without that State's consent. Nonetheless, from the available evidence there does not appear to be a pattern of targeting civilian vessels or crews of particular nationalities, so as to potentially equate to a prohibited use of force against the flag State(s).[11] Rather, the attacks are unlawful under international human rights law and the international law of the sea, discussed below.

2. No armed conflict and no authority to target under humanitarian law

8. International humanitarian law cannot authorize the United States' attacks. The threshold for a non-international armed conflict requires bilateral military hostilities of sufficient intensity involving an organized armed group(s) and a State,[12] regardless of motive (political or otherwise).[13] No such hostilities exist. The listed groups are allegedly trafficking drugs, which does not involve intense military combat. Rather, the violence is unidirectional: the United States is attacking non-military vessels and individuals in peacetime. Any suggestion that other American States may be engaged in armed conflict with some groups (for instance within their own territories) is legally irrelevant when the country itself is not engaged in sufficiently intense hostilities with them.

9. Further, the listed groups are not "organized armed groups" under international humanitarian law,[14] regardless of whether they may be "organized" under the law against transnational organized crime. Humanitarian law requires indicia of *military* organization with a nexus to hostilities, and these are lacking, such as the capacities to command and launch military operations, recruit and train fighters, and arm, equip and supply forces.[15] The listing of groups as "terrorist" has no legal relevance when assessing intensity and organization under humanitarian law.

10. In the absence of armed conflict, international humanitarian law does not apply and cannot authorize the militarily targeting of vessels or persons. The United States has reportedly targeted individuals where there is "reasonably certainty" that they are "affiliated" with listed organizations.[16] Even if humanitarian law did apply, individuals trafficking drugs would not be lawfully targetable because they are not taking a direct part in hostilities, whether sporadically or by performing a continuous combat function,[17] or otherwise as members of armed groups, since their activities lack a direct causal link to inflicting military harm on the adversary.[18] (In addition to persons allegedly involved in trafficking drugs, some victims have reportedly included

fishermen, migrants and victims of human trafficking.) Further, the drugs or the vessels would not qualify as lawful military objectives, since they clearly do not make an effective contribution to military action and their destruction does not offer a definite military advantage, as required by humanitarian law.[19] Even if trafficking raised funds that would be used by a group to finance its putative hostilities against the United States, the drugs and vessels would not meet the definition of military objective: in State practice, there is little support for the view that "war sustaining" economic activities qualify as military objectives.

11. It has been reported that military personnel carrying out the attacks enjoy "battlefield immunity" under domestic law for following orders considered by the United States to be compliant with the laws of war. However, since international humanitarian law does not apply to the attacks, the killings must be assessed under international human rights law (see below). Domestic legal immunities for international crimes (including war crimes and crimes against humanity) or violations of the right to life are not consistent with international law, including for heads of Government, senior officials, or military commanders and personnel. Functional immunity before foreign domestic courts is also lifted for international crimes. While the United States' attacks do not involve war crimes since no armed conflict exists, under domestic law, not only in war but also in peacetime its military personnel are only required to obey lawful orders.[20] United States military law prohibits war crimes, murder and manslaughter including extraterritorially,[21] and there is a federal executive ban on "assassination".[22] The Government has regrettably penalized former military personnel who called on United States forces to disobey illegal orders, rather than those who allegedly committed unlawful killings. Even if humanitarian law applied, every combatant has a duty to disobey a manifestly unlawful order, including orders to commit the war crime of murdering civilians, and bears criminal liability where the person knew the order was unlawful or should have known because of the manifestly unlawful nature of the act so ordered.[23]

3. Violations of the law of the sea and maritime safety law

12. The United States attacks are not authorized by, and violate, the customary international law of the sea, which regulates the treatment of vessels and their crews on the high seas. The law of the sea does not authorize the offensive military targeting of vessels allegedly trafficking narcotics (that is, outside the law of national self-defence, humanitarian law, or personal self-defence or defence others from an imminent lethal threat to life), even with flag State consent. Rather, it permits State authorities to intercept, board and inspect a vessel on the high seas where there are reasonable grounds to suspect it is stateless[24] (which includes where it may be flying a false flag; but there is no rule that a ship must physically fly a flag of nationality). There is no unilateral right of visit on the basis that a vessel is suspected of drug trafficking or terrorism. However, under treaties, States must cooperate to suppress illicit drug trafficking on the high seas, and a flag State may request another State to intercept a vessel of its nationality where it has reasonable grounds to believe that it is engaged in drug trafficking.[25] Flag States may also authorize boarding by another State to suppress maritime safety offences.[26]

13. Authority to use force is implicit in such rights of visit. Customary law "requires that the use of force must be avoided as far as possible and, where … unavoidable, it must not go beyond what is reasonable and necessary in the circumstances".[27] The use of force must be "unavoidable, reasonable and necessary".[28] Force must be graduated, commencing with recognized signals to stop; where this does not succeed, shots may be fired across the bows; only then, after further warnings, may force be used as a last resort, and even then "all efforts should be made to ensure that life is not endangered".[29] Instruments suppressing drug trafficking and maritime safety offences similarly require a proportionate, law enforcement-based approach to the use of force when boarding at sea with flag State consent.[30] These rules are consistent with the limits on the use of force in personal self-defence or defence of others in accordance with the right to life, discussed below. There is no evidence that the United States attacks on vessels were consistent with the law of the sea: there were no apparent attempts to board vessels suspected of being stateless or flagged vessels with flag State consent, evidence that force was necessary to effect

boarding or in personal self-defence, or evidence that the degree of force used was necessary and proportionate.

14. The United States' attacks on civilian vessels likely constitute offences under the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, including the offences of destroying or damaging ships, violence against persons, and killing or injuring persons.[31] States parties enjoy certain extraterritorial jurisdictional over such offences, and bear obligations to prevent such offences, apprehend offenders in their territory, investigate offences, extradite or prosecute suspects, and cooperate in providing mutual legal assistance. The attacks could relatedly qualify as terrorist acts under Security Council resolution 1566 (2004), namely criminal acts committed with the intent to cause death or serious bodily injury, "with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, [or] intimidate a population", and when constituting an offence under the aforementioned international counter-terrorism convention.

15. The international law of the sea and international human rights law require flag States to ensure that their ships render assistance to any person – including criminal suspects, and persons shipwrecked by military operations – found at sea in danger of being lost; and to proceed with all possible speed to the rescue of persons in distress, in so far as such action may reasonably be expected.[32] In most of the incidents in which individuals reportedly survived an initial military strike, they were not subsequently recovered and were presumed dead, despite foreknowledge of their location and the reported activation of search and rescue procedures. In at least one incident, two shipwrecked survivors of an initial strike were subsequently targeted and killed, in violation of the right to life and the duty to rescue at sea.

4. No other international legal basis

16. There are no other international legal rights to unilaterally use military force outside a State's territory, including at sea, to counter terrorism, organized crime, or drug trafficking. Nor is there any rule permitting extraterritorial law enforcement abord foreign flagged vessels, or in foreign territory (including the territorial sea) without the foreign State's consent.

5. Violations of the right to life

17. Article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the United States in 1992, and customary law prohibit the arbitrary deprivation of life. The right to life is a *jus cogens* norm that cannot be derogated from, even in an armed conflict or a public emergency.[33] Jurisdictionally, States must respect the human right to life whenever their military activities have a direct and reasonably foreseeable impact on the right to life of individuals outside their territory.[34] This includes on foreign territory not otherwise under the States's control and in maritime areas outside the State's territorial sea.

18. The use of potentially lethal force is permitted only where it is strictly necessary and proportionate in personal self-defence or defence of others against an imminent threat of death or serious injury.[35] It must be strictly necessary in view of the threat posed by the attacker; it must be a last resort after other alternatives have been exhausted or deemed inadequate; the force applied cannot exceed the amount strictly needed for responding to the threat; the force must be carefully directed only against the attacker; and the threat responded to must involve imminent death or serious injury.[36] The use of force should also comply with relevant international standards on the use of force by law enforcement officials.[37] Law enforcement officers must further "give a clear warning of their intent to use firearms" unless doing so would unduly place the officer or another person at risk.[38]

19. There is no evidence available to suggest, and the United States has not claimed, that any person aboard any of the vessels attacked posed any imminent threat to United States military personnel

or any other persons. The concept of an imminent threat to life does not stretch to encompass an attenuated chain of causation in which potential future deaths result from drug consumption after numerous intervening steps occur. There is also no evidence that the use of force was a last resort and was necessary and proportionate, particularly in view of the Secretary of State's admission that vessels could have been intercepted but the United States instead chose to destroy them to deter other drug traffickers,[39] and given the existence of other law enforcement, border security, public health, and domestic and international drug control policy alternatives.

20. The International Narcotics Control Board, independent experts mandated by States to monitor implementation of three narcotics conventions, has declared that "[e]xtrajudicial responses to any alleged drug-related activities are in violation of fundamental human rights and the international drug control conventions", and expressed concern at the "increasing use of the extrajudicial targeting of persons suspected of drug-related trafficking and of extrajudicial killings carried out during the taking of measures to interdict trafficking".[40] The Inter-American Commission on Human Rights has held hearings on the killings. Various legal cases have also been filed.

21. The use of potentially lethal force must also be duly authorized by domestic law to be compatible with the right to life. In this respect there are questions whether the attacks comply with the United States War Powers Resolution 1973 and the federal ban on assassination.

22. Under international law, the United States must (a) conduct prompt, effective, thorough, independent, impartial and transparent investigations into these apparent extrajudicial killings in line with international standards; (b) prosecute the perpetrators (including military and political leaders who ordered the attacks) for crimes (such as murder and crimes against humanity) reflecting the seriousness of the attacks; and (c) provide effective remedies and adequate, effective and prompt reparation to the victims and their families (such as restitution, compensation, rehabilitation, satisfaction, and non-repetition of attacks.[41] Specifically, investigations should establish the identity of those killed; the factual and evidentiary basis on which they and their vessels were targeted; the circumstances, legal basis, necessity, and proportionality of the use of force; and the measures taken to locate, rescue and account for survivors. Investigations must also include appropriate measures to secure, collect and preserve relevant evidence, such as records relating to the planning, authorization and execution of the attacks; intelligence and other information used to identify and target vessels and persons aboard; operational records and communications; and available photographic, video and other audiovisual material documenting the attacks and their aftermath. Prosecution of arbitrary killings necessarily requires the establishment of extraterritorial prescriptive criminal jurisdiction over nationals or others acting for the State. Immunities and amnesties provided to perpetrators and to their superiors, and comparable measures leading to de facto or de jure impunity, are incompatible with the duty to respect and ensure the right to life and to provide victims with an effective remedy.[42]

6. Crimes against humanity

23. There are reasonable grounds to believe that the reported 68 attacks that killed 223 people constituted crimes against humanity of murder under customary international law. Murder means the unlawful killing of a person where the perpetrator intended to cause death or knew that it would occur in the ordinary course of events.[43] The killings of 223 people are unlawful and intentional under international law for the reasons detailed above.

24. Crimes against humanity contextually require that murder (or attempted murder) was committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.[44] An "attack directed against any civilian population" means a course of conduct involving the multiple commission of murders against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack.[45] The United States' attacks are "systematic" in that they are pursuant to an organized State policy and not random;[46] and/or "widespread" given the large number of victims.

25. The phrase "any civilian population" is not limited to the population of a particular State or geographic area within a State, and an attack does not need to be aimed at a whole population however defined.[47] Rather, the term implies the collective nature of an attack upon multiple victims,[48] being more than just "a limited and randomly selected number of individuals".[49] The population requirement thus serves only to qualify the targeted group as "civilian",[50] in the context of crimes against humanity originating in situations of armed conflict and thus necessitating a differentiation from lawful military targets; today, crimes against humanity apply equally in peacetime. The word "any" indicates that "civilian population" has a wide definition and should be interpreted broadly.[51] It could thus encompass attacks on multiple national territories, across a region, or beyond national territory including at sea. An attack can furthermore be committed against any civilians, "regardless of their nationality, ethnicity or other distinguishing feature",[52] but equally could include a group defined by, for example, its "(perceived) political affiliation",[53] identity, or status as displaced persons. The former President of the Philippines, for instance, is on trial for alleged crimes against humanity of murder for targeting suspected criminals, or criminals having criminal propensities, including drug offenders.[54] The United States attacks are directed at that part of the regional population in the Americas that is allegedly engaged in maritime drug trafficking towards the United States and affiliated with criminal groups listed as terrorist.

26. Under customary international law,[55] States are required to criminalize crimes against humanity in domestic law (including the ordering of them); establish jurisdiction over them (including extraterritorially on the basis of nationality or where the offence is committed on board a ship or aircraft registered in the State); investigate and apprehend offenders in their territory; extradite or prosecute offenders; and apply proportionate penalties. States must further establish common and superior responsibility for crimes by subordinates, and exclude defences of superior orders or exemptions based on official position. No exceptional circumstances whatsoever, such as armed conflict, internal political instability or other public emergency, may be invoked as a justification of crimes against humanity. The State itself must refrain from committing crimes against humanity and must also take measures to prevent them.

7. Inter-State aggression

27. The United States justified its military operation in Venezuela in January 2026 as necessary to counter alleged "narco-terrorism" by the Venezuelan President and Cartel de los Soles, and characterized it as a limited extraterritorial law enforcement operation to obtain custody of the President and bring him to justice before United States courts on narco-terrorism charges. The nature and scale of the operation was plainly more than law enforcement; and international law does not permit extraterritorial law enforcement to arrest individuals without the foreign State's consent. Such transboundary abductions constitute arbitrary detention contrary to article 9 of the ICCPR. Venezuela's President was entitled to head of State immunity before United States courts.

28. The operation reportedly involved over 150 aircraft and airstrikes, naval assets and ground forces, and reportedly killed at least 75 people (mainly military and some civilians). As such, under international law, it constituted a prohibited use of force under article 2(4) of the Charter and customary law; an armed attack under article 51 of the Charter and customary law giving Venezuela a right of self-defence, given its gravity; and an act of aggression under customary law (which attracts individual criminal liability for responsible political and military leaders).[56] There is no international right to use of force to suppress alleged "narco-terrorism". Aggression resulting in deprivation of life ipso facto violates the right to life.[57] The use of force also violated Venezuela's sovereignty and the international duty of non-intervention. When the United States used force in 1989 to arrest Panama's head of Government, who had been indicted in the United States on drug trafficking charges, it was condemned by the General Assembly as "a flagrant violation of international law and of the independence, sovereignty and territorial integrity of States".[58]

29. The United States also instituted a forcible blockade of unilaterally sanctioned oil tankers, and partly justified it to combat Venezuela's alleged narco-terrorism.[59] Such partial blockade may violate the prohibition on the use (and threat) of force under article 2(4) of the Charter and customary law, explicitly qualify as a sufficiently serious use of force so as to constitute aggression,[60] and thus also amount to an armed attack. A right of visit exists under the law of the sea only in relation to vessels suspected of being stateless (including where flying a false flag), but there is no right to enforce one State's unilateral sanctions against another. After the Venezuelan President was deposed, United States coercive control over Venezuela's oil revenues may have involved violations of Venezuela's sovereignty, the duty of non-intervention, the right of economic self-determination, and the principle of permanent sovereignty over natural resources.

8. Threats of illegal force against other States

30. On a number of occasions since 2025 the President has stated that the United States would consider using force against drug cartels in other American States, including Mexico and Colombia, provoking protest. Cuba, which the United States has unilaterally sanctioned as "State sponsor of terrorism", has also been threatened. Article 2(4) of the Charter and customary law prohibit the threat of illegal force against other States, which includes such threats of military operations not in self-defence and without foreign State consent. Extraterritorial "law enforcement" not involving military force would separately violate sovereignty and the duty of non-intervention. For instance, there have been unconfirmed reports of foreign covert action, including targeted killings, of drug cartel leaders in Mexico. In addition, there have been reports of covert foreign drone surveillance flights in Mexico, which could violate sovereignty in the absence of consent.

9. Obligations of other States

31. At least four States have reportedly refused to cooperate (such as through sharing intelligence or access to bases or military assets) in relation to United States military attacks on allegedly drug trafficking vessels. Under international law, States must not knowingly aid or assist in the commission of an internationally wrongful act by another State.[61] No issue arises where a State fulfils its duty to rescue life at sea in the aftermath of attacks, assuming rescue is not followed by arbitrary detention, enforced disappearance, or arbitrary expulsion.

B. Regional security cooperation against "narco-terrorism"

32. The "Shield of the Americas" initiative has promoted a more militarized response to criminal groups in the Americas. In March 2026, the Joint Security Declaration of the Americas Counter Cartel Conference committed to expanding multilateral and bilateral cooperation to enhance security, through a coalition focusing on "narco-terrorism", border security and other shared threats in the Western Hemisphere, while respecting sovereignty and national laws.[62] Eighteen States have reportedly expressed support, but some major regional States have abstained. While not creating obligations, the arrangement promotes a highly securitized response without explicit commitments to human rights and international law, or to addressing root causes of organized crime such as poverty, corruption and State weakness.[63]

C. Bilateral security cooperation

33. Since the commencement of the United States' recent campaign against narco-terrorism, a number of States have cooperated with it in military operations in their territories. In March 2026, the United States military supported "lethal kinetic operations" by Ecuadorian forces against designated terrorist organizations in Ecuador to combat "narco-terrorism".[64] Violations of international human rights law allegedly resulted from this "Total Extermination" operation in the community of San Martín near the Colombian border, involving the use of potentially lethal force (outside of any armed conflict), destruction of property, arbitrary detention and enforced

disappearance, torture, and forced displacement, along with the absence of prompt, thorough and independent investigations by the authorities.[65] The precise role of the United States is unknown due to a lack of transparency. International law on the right to life applies to any extraterritorial military or law enforcement action against criminal groups. Ecuador's Executive Decree No. 424 (2026) grants immunity to foreign forces participating in "armed conflict", subject to international agreements, which would include the unpublished 2023 status of forces agreement with the United States. Such arrangements cannot derogate from the international obligation to provide accountability and effective remedy, by ensuring that either the host or foreign State criminally investigates and prosecute alleged offenders. The United States has not explained the nature of its military activities or the rules or bilateral arrangements governing them. States must refrain from aiding or assisting Ecuador to violate the right to life,[66] thus precluding the provision of logistical support, intelligence, weapons or munitions to Ecuadorian forces where they would be used in violation of international law.

34. In May 2026, Guatemala requested United States military support for Guatemalan military operations against drug trafficking groups. In Colombia, the new President in 2026 pledged military cooperation with the United States against criminal groups. The United States is reportedly also interested in cooperation with Honduras. Mexico has rejected requests to permit United States military operations. Most States in the region, including those participating in the Shield of the Americas, have not allowed kinetic operations by foreign States, including due to concerns about public opposition and the history of problematic foreign interventions in Latin America.

35. On 13 June 2026, the United States claimed to have "executed" the leader of Tren de Aragua in Venezuela, in coordination with the Venezuelan authorities.[67] In the absence of any armed conflict involving that group, there was no authority to target him under international humanitarian law. While the Venezuelan authorities reportedly claimed there were prior "clashes" with the group, the attack would have violated the right to life if he did not present an imminent lethal threat to others at the time and the airstrike was not necessary as a last resort and as the least intrusive means of responding. The Venezuelan authorities cannot lawfully consent to an extrajudicial killing on their territory, even if such consent were freely given and not coerced following the United States aggression earlier in 2026 that led to a change in leadership.

D. Ineffectiveness of excessively militarized responses

36. Apart from the legality of recent military operations against narco-terrorism, there is growing evidence that such approach has not been effective in reducing drug trafficking to the United States. In mid-2026, a United States Drug Enforcement Administration assessment reportedly concluded that the military response had not reduced the supply or price of cocaine, but has had "balloon effects"; and United States Department of Defence reportedly informed the Senate Armed Services Committee that seized cocaine still showed high purity levels, indicating that supply has not significantly declined. Cocaine seizures at the United States border have also remained constant. Experts have suggested that the attacks may have induced cartels to diversify land and sea routes, methods of trafficking (including to use larger vessels), destination States,[68] drug types, and organized criminal activities. Further, much cocaine in the region is reportedly moved on container ships (not small boats), most of which are never inspected at ports, and then cross United States' land borders. Further, the military attacks have focused on cocaine and not addressed the primary cause of drug overdose deaths in the United States, fentanyl and opioids, which are largely not transported by sea from Venezuela. Moreover, in killing low-level, "replaceable" suspects, the attacks have thwarted evidence gathering on cartel structures, which would facilitate their systemic disruption, asset seizures, and the prosecution of their leaders.[69] Meanwhile, it has been estimated that the military operations had cost US$4.7 billion by mid-2026 – funds that could have instead been spent on evidence-based law enforcement, public health, and developmental interventions.

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Notes

[1] CED-UA ECU(49-56).
[2] Report under Section 1230 of the Fiscal Year 2024 National Defence Authorization Act (50 USC §1543a).
[3] US President, "Order designating cartels and other organizations as foreign terrorist organizations and specially designated global terrorists", 20 January 2025, https://www.whitehouse.gov/presidential-actions/2025/01/designating-cartels-and-other-organizations-as-foreign-terrorist-organizations-and-specially-designated-global-terrorists/.
[4] https://www.ohchr.org/en/press-releases/2025/10/us-attacks-caribbean-and-pacific-violate-international-human-rights-law-un; https://www.ohchr.org/en/press-releases/2025/10/us-attacks-caribbean-and-pacific-violate-international-human-rights-law-un; USA 30/2025; https://docs.un.org/en/A/HRC/61/52; https://www.incb.org/incb/en/news/news_2025/statement-by-prof--sevil-atasoy--president--international-narcotics-control-board--for-human-rights-day-2025.html;
[5] *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States) (Merits)* [1986] ICJ Rep 14, para. 195.
[6] See also https://www.justsecurity.org/120235/drug-cartels-jus-ad-bellum-loac/.
[7] *Nicaragua (Merits)*, above.
[8] USA 14/2025.
[9] See the cases of *J.G.G. v. Trump* (US District Court for Columbia) 2005; *A.R.P., et al. v. Trump, et al.* (US Court of Appeals for the Fifth Circuit (en banc), 2005; *A.V., et al. v. Trump* (District Court for the Southern District of Texas), 2005.
[10] Common article 4 of the four Geneva Conventions of 1949.
[11] As contemplated in *Oil Platforms (Iran v United States)*, Judgment [2003] ICJ Rep 161, para. 64.
[12] International Committee of the Red Cross, Commentary (2025) to article 3 of the Fourth Geneva Convention, para. 492. See also *Prosecutor v Tadić (Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction)* (Appeals Chamber), Case No. IT-94-1-AR72, 2 October 1995, para. 70.
[13] *Prosecutor v Limaj, Bala and Musliu* (Judgment), ICTY Case No. IT-03-66-T, 30 November 2005, para. 170.
[14] See the *Tadic* (1995) and *Limaj* (2005) cases, above.
[15] *Prosecutor v Haradinaj, Balaj and Brahimaj* (Judgment), ICTY Case No. IT-04-84-T, 3 April 2008, para. 60.
[16] https://responsiblestatecraft.org/caribbean-boat-strike/.
[17] ICRC, "Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law" (2009).
[18] See ICRC, Interpretive Guidance on the Notion of Direct Participation in Hostilities.
[19] Protocol I of 1977 Additional to the Geneva Conventions of 12 August 1949, article 51, reflecting customary IHL; ICRC Customary International Humanitarian Law, rule 8.
[20] See e.g. Uniform Code of Military Justice, article 92; U.S. Army Field Manual 27-10 (Law of Land Warfare).
[21] Uniform Code of Military Justice, article 118.
[22] Executive Order 12333 (1981).
[23] ICRC Customary International Humanitarian Law, rules 154-155.
[24] United Nations Convention on the Law of the Sea 1982 (UNCLOS), article 110(1)(d), reflecting customary law.
[25] UNCLOS, article 108, and United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988 (ratified by the United States on 20 February 1990), article 17.
[26] Protocol 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (ratified by the United States on 28 August 2015).
[27] *M/V 'Saiga' (No 2) (Saint Vincent and the Grenadines v Guinea) (Judgment)*, International Tribunal on the Law of the Sea, (1999) 38 ILM 1323, paras. 155-156.
[28] *Guyana v Suriname* (2008) 47 ILM 164, para. 445.
[29] *The M/V 'Saiga' (No. 2) Case*, above, paras. 155–156.
[30] Protocol 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, article 8 bis (9); Narcotic Drugs Convention 1988, above, article 17(5).
[31] Articles 3(1)(c), (b) and (g) respectively.
[32] UNCLOS, article 98(1), reflecting customary law; and International Convention on Maritime Search and Rescue, 1979; Human Rights Committee, general comment No. 36, para. 63.
[33] Human Rights Committee, general comment No. 36, para. 12.
[34] Human Rights Committee, general comment No. 36, paras. 22 and 63.
[35] General comment No. 36, para. 12.
[36] Ibid.
[37] Including the Code of Conduct for Law Enforcement Officials 1979 and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials 1990.
[38] Basic Principles, ibid, para. 10.
[39] https://www.cnn.com/2025/09/03/politics/rubio-blow-up-drug-ships.
[40] INCB, Report for 2025, E/INCB/2025/1 (2026), para. 760.
[41] ICCPR, articles 6 (right to life) and 2(3) (right to effective remedy); general comment No. 36, paras. 27-28; Minnesota Protocol on the Investigation of Potentially Unlawful Death 2016.
[42] General comment No. 36, para. 27.
[43] E.g. *Prosecutor v Bemba* (Decision), Pre-Trial Chamber II, ICC-01/05-01/08-424, 15 June 2009, para. 138.
[44] E.g. Rome Statute of the International Criminal Court, article 7(1) and International Law Commission, Draft Articles on Prevention and Punishment of Crimes Against Humanity (2019), article 2(1), reflecting custom.
[45] Rome Statute, art 7(2)(a), ibid, and ILC Draft Articles, ibid, article 2(2)(a).

[46] *Prosecutor v Kunarac et al* (Appeals Chamber Judgment), IT-96-23-A & IT-96-23/1-A, 12 June 2002, para. 90; *Prosecutor v Kordić et al* (Appeals Chamber Judgment), IT-95-14/2-A, 17 December 2004, para. 95; *Prosecutor v Blaškić* (Appeals Chamber Judgment), IT-95-14-A, 29 July 2004, para. 105.
[47] See e.g. *Situation in the Republic of Kenya* (Decision), Pre-Trial Chamber II, ICC-01/09, 31 March 2010, para. 82; *Prosecutor v Bemba* (2009), above, para. 77; *Prosecutor v Kunarac et al* (Judgment), IT-96-23-T & IT-96-23/1-T, 22 February 2001, para. 424; *Prosecutor v Tadić* (Opinion and Judgment), IT-94-1-T, 7 May 1997, para. 644.
[48] *Tadić* (1997), ibid.
[49] *Prosecutor v Gotovina et al* (Judgment), IT-06-90-T, 15 April 2011, para. 1704.
[50] Otto Triffterer and Kai Ambos (eds), *Rome Statute of the International Criminal Court: A Commentary* (3rd edition, 2016), 173.
[51] ILC Draft Articles, above, commentary to article 2, para. 19.
[52] *Prosecutor v Katanga et al* (Decision), Pre-Trial Chamber I, ICC-01/04-01/07-717, 30 September 2008, para. 399; *Tadić* (1997), above, para. 635; *Prosecutor v Katanga* (Judgment) Trial Chamber II, ICC-01/04-01/07-3436, 7 March 2014, para. 1103; *Prosecutor v Bemba* (Judgment), Trial Chamber III, ICC-01/05-01/08-3343, 21 March 2016, para. 155.
[53] *Prosecutor v Ruto et al* (Decision), Pre-Trial Chamber II, ICC-01/09-01/11-373, 23 January 2012, para. 164.
[54] https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd180aeb09d.pdf.
[55] Largely reflected in the International Law Commission's Draft Articles on Prevention and Punishment of Crimes Against Humanity (2019).
[56] See also https://www.ohchr.org/en/press-releases/2026/01/un-experts-condemn-us-aggression-against-venezuela.
[57] General comment No. 36, para. 70.
[58] A/RES/44/240 (1989), para. 1.
[59] https://www.justsecurity.org/127396/venezuela-military-blockade-international-law/.
[60] A/RES/3314 (XXIX) (1974) on the Definition of Aggression, article 3(d).
[61] ILC, Draft Articles on Responsibility of States for Internationally Wrongful Acts (2001), article 17.
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[64] https://www.southcom.mil/News/PressReleases/Article/4420523/ecuadorian-and-us-military-forces-launch-operations-against-narco-terrorists/; https://x.com/southcom/status/2030056869624955036.
[65] ECU 2/2026.
[66] ILC, Draft Articles on Responsibility of States for Internationally Wrongful Acts (2001), article 16.
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