

“A la moindre escarmouche...”

**The Use of Force in Modern International Law: The Case of the DRC-Rwanda Conflict
and the Involvement of Non-State Actors**

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Abstract

The ongoing conflict between the Democratic Republic of the Congo (DRC) and Rwanda, fuelled by allegations of Rwandan support for the March 23 Movement (M23) and the Alliance Fleuve Congo (AFC), raises critical legal questions regarding the use of force under international law. Reports from international organisations and Western governments claim that Rwanda provides direct military support to these non-state actors, though Kigali denies these allegations, citing national security concerns. In response, President Félix Tshisekedi has suggested the possibility of military action against Rwanda, prompting an assessment of its legality.

While Article 2(4) of the UN Charter prohibits the use of force, exceptions exist under Article 51 (self-defence) and Chapter VII (UN Security Council authorisation). For the DRC to lawfully invoke self-defence, it must establish Rwanda's effective control over these armed groups, a threshold that has not yet been conclusively met. Consequently, any unilateral military action by the DRC against Rwanda would likely constitute a violation of international law.

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Introduction

"At the slightest skirmish, if they kill a Congolese citizen or seize another locality in Congo, I will convene both chambers in Congress, as required by the Constitution, and I will ask for authorisation to declare war on Rwanda."

This statement by President Félix Tshisekedi was made in the context of escalating tensions in the DRC, characterised by the increasing influence of the AFC. Established on 15 December 2023 in Nairobi, this politico-military coalition has aligned itself with the M23, a rebel group active in eastern DRC [since 2012](#). This coalition has facilitated a rapid military offensive, enabling [the capture of several strategic locations](#), including Goma and Bukavu, in early 2025.

Although this conflict may ostensibly appear to be of a domestic nature, it has significant international implications. [Reports](#) from the UN, non-governmental organisations, and Western governments have accused Rwanda of directly supporting the M23 and AFC, alleging that Rwandan troops have participated in military operations and that rebel units have received strategic guidance from Rwandan special forces. Kigali, however, [refutes](#) these allegations, asserting that its actions are solely aimed at safeguarding its national

security against armed groups operating from within the DRC.

Given the escalating tensions, President Tshisekedi's statement regarding the potential recourse to force against Rwanda raises a fundamental question: to what extent would such a direct use of force be legitimate under international law?

This blog examines the legal framework governing the use of force and evaluates, within the purview of international law, the criteria for establishing state responsibility for the actions of non-state actors.

Legal and Strategic Framework for the DRC's Response to Security Threats

Modern international law is founded on a strict prohibition of the use of force, as enshrined in Article 2(4) of the UN Charter. This provision, regarded as a peremptory norm (*jus cogens*) of international law, imposes upon states the obligation to refrain from any threat or use of force against the territorial integrity or political independence of another state. However, this does not amount to an absolute ban on all military action. International law also recognises the inherent right of states to defend themselves and to safeguard their sovereignty through two principal mechanisms: self-defence and collective action authorised by the Security Council.

The principle of self-defence, enshrined in Article 51 of the UN Charter, grants states the right to use force in response to an armed attack when no other means of protection are available.—Under international law, an *armed attack* refers to the use of force of sufficient gravity by a state or non-state actor. In the present context, the situation in the DRC must meet the threshold of an armed attack, characterised by significant scale and effects, thereby justifying a targeted military response against the actors responsible for such aggression.

Alternatively, the DRC may seek collective action under the auspices of the UN Security Council, pursuant to Chapter VII of the UN Charter. This provision empowers the Council to adopt binding measures, including the authorisation of the use of force, upon determining the existence of a threat to international peace and security. Such an initiative could take various forms, ranging from the adoption of a resolution authorising the use of force to [the revision and strengthening of MONUSCO's mandate](#) in the DRC.

The Legal Constraints on the DRC's Use of Force Against Rwanda

In light of the foregoing, one may question why, despite the various legal avenues available to the DRC for resorting to force,

it cannot lawfully direct military action against Rwanda, as pledged by President Tshisekedi. The primary constraint lies in the legal principle of legitimacy. Under international law, the classification of an armed conflict is crucial, as it determines the conditions under which force may be lawfully employed.

Armed conflicts are classified into two categories: international armed conflicts (IACs) and non-international armed conflicts (NIACs). The right to use force in self-defence is recognised only [in the context of an IAC](#), which requires the involvement of state actors. In the present case, for the DRC to lawfully invoke self-defence against Rwanda, it must first establish Rwanda's state responsibility by demonstrating that it exercises effective control over the M23 (see ICJ Rep 14; ICJ Rep 168). This entails proving that Rwanda directly commands and oversees the armed group's military operations, including planning and supervising its activities, rather than merely providing material assistance or logistical support, regardless of its significance.

A comprehensive assessment of the available evidence is therefore necessary to determine whether Rwanda's support for the AFC/M23 has reached the threshold of effective control. However, given the legal

constraints faced by the DRC in asserting its right to use force, it may be inferred that, while the evidence gathered thus far is substantial, it does not yet conclusively demonstrate the Rwandan government's direct coordination of the group or its provision of sufficient support to sustain the AFC/M23's aggression.

Consequently, although the evolving diplomatic and security context strengthens Kinshasa's position against Kigali, the direct use of force against Rwanda under self-defence remains legally contentious. Accordingly, any military action undertaken by the DRC against Rwanda could be deemed illegitimate and a violation of international law.

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