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Establishing state responsibility in the absence of effective government
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Under international law, the state is generally only responsible for the conduct of public authorities and not of private actors. But when a state loses effective control over part of its territory, that loss is often accompanied (or even caused) by an enhanced role for private actors, such as armed groups, secessionist entities, or even informal community institutions. Under the current system, these actors cannot be held directly responsible when they commit, for instance, human rights abuses. At the same time, states are rarely completely absent from the picture: the government may try to reassert control or enlist the help of militias; foreign powers may support rebel groups or prop up separatist regimes.

Against this backdrop, the dissertation explores when states can be held responsible in connection with private conduct in such situations, and how any remaining accountability gaps can be narrowed in cases where a state is involved. In doing so, it focuses on three bases of responsibility: violating a duty to prevent and/or redress private conduct; complicity in private conduct; and the transformation of private into public conduct, through its attribution to the state. The analysis delves into the work of the International Law Commission and international jurisprudence, including the hitherto largely underexplored case law of regional human rights courts on these issues. To narrow the accountability gap, the dissertation argues that there should be a general rule prohibiting state complicity in the wrongful conduct of private actors; in the meantime, complicity should in certain limited cases form the basis for attribution.

This is a volume in the series of the Meijers Research Institute and Graduate School of the Leiden Law School of Leiden University. It is part of the Law School's research programme 'Exploring the Frontiers of International Law'.

Establishing State Responsibility in the Absence of Effective Government

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