




# Classification of Conflicts

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## Why? ABCs


- Applicability of IHL:
  - ✦ IHL applies only in armed conflicts.
- Basic tools:
  - ✦ In order to identify which IHL basic instruments, provisions and norms apply, one must clarify the type of conflict;
- Core differences (e.g.):
  - ✦ Status of persons protected;
  - ✦ Criminal liability – different definitions, applicable crimes, grave breaches (*Tadić, Lubanga*);
  - ✦ Conduct of hostilities;
  - ✦ Humanitarian assistance.



## Types

- (1) International Armed Conflict [IAC]
- (2) Non-International Armed Conflict [NIAC]

➤ *Internationalized* [?]



## IAC

**Definition:**

GC1929 CA2

- a. HCP:
  - a. Declared war;
  - b. Other armed conflict;
  - c. Arising between two or more HCP;
  - d. Even if not recognized.
- b. Occupation:
  - a. Partial or total;
  - b. Territory of a HCP;
  - c. No armed resistance.

## IAC – cont'd



API 1§3/1§4:

- a. All situations covered by GC1949 CA2;
- b. “[A]rmed conflicts in which **peoples** are fighting against **colonial domination** and **alien** occupation and against racist regimes in the exercise of their **legal right** of self determination [...]”

## IAC – cont'd



### Scope of application:

Temporal:

- i. Starts: first shot fired (*Pictet comm.*) – [?]
- ii. Ends: “final cessation of the hostilities” (*Haradina*):
  - i. PP & PoW – final repatriation (Art. 5, GCI/II/III);
  - ii. Occupation – (a) end of military operation or 1 year after for the OT (article 6 §2/3, GCIV); (b) “termination of the occupation” (article 3(b), API).

Geographical:

- i. The **entire territory** of the belligerent states.

## IAC – cont'd



Personal:

PP:

- i. GCI/II – medical personnel;
- ii. GCIII – PoW (article 4)
- iii. GCIV – the test of nationality (+ allegiance, *Tadić*)

## NIAC



### Definition:

- ✦ Only in 1949 was an “internal” AC recognized as covered by IHL.
- ✦ The definition and scope of application differ between CA3 (and customary law) v. APII (article 1 § 1).

## NIAC – cont'd



GC CA3 § 1: *In the case of an armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum the following provisions [...]*

APII 1 § 1: *[W]hich develops and supplements Article 3 [...] without modifying its conditions of applications, shall apply to all armed conflicts which are not covered by Article 1 [...] and which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol.*

APII 1 § 2: *[S]hall not apply to situations of internal disturbances and tensions [...]*

## NIAC – cont'd



### Scope of application:

Temporal scope:

Starts:

CA3 (+ ICTY <i>Haradinaj</i> )	APII (article 1 § 1)
1. Organisation; 2. Intensity ( <i>protracted</i> ); 3. NSAG/HCP + NSAG/ NSAG.	1. Organisation; 2. Control of territory; 3. Intensity; 4. NSAG/HCP [only].

Ends: is mentioned only in *Haradinaj* as “Peaceful resolution of the conflict”.

## NIAC – cont'd



Personal scope: no status of PP.

- Nonetheless, APII article 2 § 2 expands its application to all persons deprived of their liberty in connection with the armed conflict, even when the conflict has ended.

Geographical scope: ???

## Classification



- The *fraction theory* v. the *holistic theory*;
- *Proxy war*;
- *Cross border situations*;
- The *War on Terror*;
- Other situations classified as a conflict (\*Mexico)

- What are the merits?
- Who are you?

