

# *The Taxonomy of Armed Conflict*

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## **Differences between an International Armed Conflict & Non-International Armed Conflict and the different models of conflict that arise.**

### **Introduction:**

First and foremost there is a clear distinction of conflicts whether armed or non-armed that are international and those that are of a non-international, which finds its base on territorial boundaries that separate states and gives authority to the government of the state to exercise full sovereignty over the nationals found therein. This is clearly articulated in the Montevideo treaty, that is, that a state should have a functioning government, a population, a defined territory<sup>[1]</sup> and the ability to be recognized by other states.

For a long time wars have been at the inter-state level (conventional conception of war), this is evidenced during the first and second world wars and there were little internal conflicts that their intensity would escalate to the attention of the international community. However after the end of the cold war in 1990s, there have been grave atrocities committed as a consequence of civil wars worldwide more so in African states. These have given rise to the re-conceptualization of the limitation of involvement of international community in matters explicitly belonging under the jurisdiction of the state.

International armed conflict happens between two state parties in the international system. The Geneva common article 2 categorically states that: *"In addition to the provisions which shall be implemented in peacetime, the present convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them."*<sup>[2]</sup> An Example includes the Invasion of Germany into other states all over Europe that also culminated in the Holocaust, where it is estimated that over 6 million Jews were killed by the Nazi regime and their supporters.

Non International Armed Conflict exists when there is: protracted armed violence between governmental authorities and organized armed groups or between such groups within a state<sup>[3]</sup>. Other cases other than the Tadic Case 1995 which has considerably shaped the development of the law of armed conflict include the Rwandan Case where the International Criminal Tribunal for Rwanda used this specific approach noting that "it is necessary to

evaluate both 'intensity' of the conflict and 'organization of the parties' to the conflict".<sup>[4]</sup> In Africa examples include Liberia, Darfur, South Africa<sup>[5]</sup>.

There are however other types of conflicts that have been identified overtime due to the complexity of some cases. Among them is Transnational Armed Conflicts, this is where a non-state armed group is engaged in protracted armed violence with a state and is operating from across an international border, the prevailing view is that this is a non-international armed conflict with the associated rights and obligations<sup>[6]</sup>.

According to the Geneva Academy of International Law and Human Rights, the distinction of a trans-nationalized armed conflict can be made by the states military level of retaliation and by harboring state's response to military intervention, the harboring state where the non-state groups has based its operations<sup>[7]</sup>. If in the first case attacks against the non-state group are limited to strictly that military infrastructure, the conflict is considered to be non-international. If retaliatory attacks target surrounding territory of the harboring state, the conflict escalates to an international level<sup>[8]</sup>.

In the second case, non-international conflict occurs when the harboring state raises no objection to military action. However, the conflict becomes international when objections are raised or if the harboring state initiates military action<sup>[9]</sup>. An Internationalized Non-International Armed Conflict can arise where a state intervenes with its armed forces on the other side of another state in a non-international conflict making a case of two different conflicts happening at the same time<sup>[10]</sup>. Cases in point include the conflicts in Afghanistan<sup>[11]</sup>, Kampuchea and Lebanon<sup>[12]</sup>.

## **Conclusion:**

There have been great strides made to cover all aspects of armed conflict, however at International and Non international armed conflict level and from an International Humanitarian Law perspective. Despite the fact that they have been of great importance to improving humanity there should be harmonization of rules governing armed conflict. This is because of the intensity of non-international armed conflict that at times is greater than inter-state wars.

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<sup>[1]</sup> This concept has exceptions as in the case of Israel where there are still issues concerning territory with the Palestine region which is also seeking recognition as a state.

<sup>[2]</sup> The Geneva Conventions of August 12, 1949

<sup>[3]</sup> Tadic Case, No. IT-94-1-AR17, p70

[4] Prosecutor v. Akayesu, Case No. IT-94-1-T, Judgement, p 620 (September 2, 1998)

[5] Daniel Westlake, "Examples of Ethnic Conflict", E-How Contributor.

See [http://www.ehow.com/list\\_6927731\\_examples-ethnic-conflict.html#page=0](http://www.ehow.com/list_6927731_examples-ethnic-conflict.html#page=0)

[6] See, "How is the term armed conflict defined in international humanitarian law?", International committee of the red cross opinion paper, march 2008, accessed at: [www.cicr.org/web/eng/siteeng0.nsf/html/armed-conflict-article-170308?opendocument](http://www.cicr.org/web/eng/siteeng0.nsf/html/armed-conflict-article-170308?opendocument): and the judgement of the ITCY in April 2008 in the Ramush Haradinaj case, Paras. 49,60

[7] Michael O. Smathers, "Types of Armed Conflict", eHow contributor. See [http://www.ehow.com/list\\_7182391\\_types-armed-conflict.html#page=3](http://www.ehow.com/list_7182391_types-armed-conflict.html#page=3)

[8] Ibid

[9] Ibid

[10] Thus, for example, according to the International Court of Justice in the Nicaragua case:

"The conflict between the contras' forces and those of the government of Nicaragua is an armed conflict which is 'not of an international character'. The acts of the contras towards the Nicaraguan government are therefore governed by the law applicable to conflicts of that character; whereas the actions of the United States in and against Nicaragua fall under the legal rules relating to international conflicts."

1986 Nicaragua Case, ICJ Reports, p 114, available at: [www.icj-cij.org/docket/files/70/6503.pdf](http://www.icj-cij.org/docket/files/70/6503.pdf)

[11] In Afghanistan in 1978, the political opposition to the taraki government turned into armed resistance. The government obtained the political and military support of the soviet union by concluding and signing on December 5, 1978, a treaty of friendship, good neighborliness and cooperation. In September 1979 president Amin replaced president taraki. From the end of December 1979 events moved rapidly and president Karmal replaced President Amin. Since then, the soviet union has had a contingent of its armed forces in Afghanistan. The armed conflict of insurgents has continued to cause considerable loss of life and destruction of property.

[12] This comes into this category due to the three developments that took place, the first is the establishment of the Arab-Peace keeping force in 1976 which comprised of largely the Syrian contingents, the 1978 intervention by Israel in the southern part of Lebanon and the presence of a special U.N. Force United Nations Interim Force In Lebanon (UNIFIL) in connection with the cease fire marking the end of hostilities in the south of the country in March 1978.