In order for IHL to apply to a situation of violence, that situation must constitute an armed conflict [1]. As different sets of rules apply to international and non-international armed conflicts, it is also important to identify the nature of the conflict. The entirety of the four Geneva Conventions, as well as the rules of Additional Protocol I apply to international armed conflicts [2], while Article 3 Common to the four Geneva Conventions and Additional Protocol II apply to non-international armed conflicts [3].

Article 2 Common to the Geneva Conventions defines international armed conflicts as ‘all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties.’ Therefore, all conflicts occurring between two States are international in character. Non-international armed conflicts are, under Article 3 Common to the Geneva Conventions, those conflicts that are ‘not of an international character’.

Therefore, the key distinction between the two types of conflicts appears to be the parties involved in the conflict. Hence, if the armed conflict is between two or more States, it will be classified as international, whereas if one of the parties is non-State in character, it will be classified as non-international.

See Classification of persons [4]; Armed conflict [1]; Armed groups [5]; International armed conflict [2]; Non-international armed conflict [3];
Chapter 2, III. 1. Situations of application [8]

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