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

Chapter 12, III. Different types of Non-international armed conflicts

Chapter 15, IV. 1. The ICRC and the legal qualification of a situation

CASES

Teaching Tool, Exercise on Qualification

International Law Commission, Articles on State Responsibility (Part A., Art 8 and Commentary)

United States, The Prize Cases

Israel/Gaza, Operation Cast Lead (Part I, Paras. 28-67; Part II, Paras. 273-283)

Israel/Lebanon/Hezbollah, Conflict in 2006

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UN Security Council, Sanctions Imposed Upon Iraq

ICTY, The Prosecutor v. Tadic (Part A., Paras. 67-70 and 96; Part E., Paras. 37-100)

Democratic Republic of the Congo, Conflict in the Kivus [25]

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ICJ, Democratic Republic of the Congo/Uganda, Armed Activities on the Territory of the Congo [27]

Georgia/Russia, Human Rights Watch’s Report on the Conflict in South Ossetia (Paras. 7-15) [28]

Iran, Victim of Cyber warfare [29]

Health Care in Pakistan’s Tribal Areas [30]

Israel/Palestine, Operation Protective Edge (Gaza, 13 June - 26 August 2014) [31]

ICTY, The Prosecutor v. Radovan Karadzic [32]

Libya, Report of the Office of the UN High Commissioner for Human Rights (2014/15) [33]

Sweden/Syria, Can Armed Groups Issue Judgments? [34]

Yemen, Potential Existence and Effects of Naval Blockade [35]
Sri Lanka, Naval War against Tamil Tigers

Mali, Accountability for the Destruction of Cultural Heritage

Syria: Attacks on Oil Infrastructure

Eastern Ukraine: Detention And Death Sentences By Armed Groups

South Sudan, Activities of Oil Companies

Somalia/Kenya, Al-Shabab Attacks

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