



HANDOUT 3: CHARACTERISTICS OF ARMED CONFLICTS & OTHER SITUATIONS OF VIOLENCE

| SITUATION | Who is fighting whom? How are those fighting organized? | The violence | The applicable law |
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| International armed conflict | State(s) armed forces vs State(s) armed forces | CLASSIC: any use of force OCCUPATION | INTERNATIONAL HUMANITARIAN LAW + international human rights law + national law |
| Non-international armed conflict | State(s) armed forces vs organized armed group(s) OR Organized armed group(s) vs Organized armed group(s) Main indicative factors of organisation of the parties: <ul style="list-style-type: none">• hierarchical structure and chain of command;• capacity to plan and launch coordinated military operations;• capacity to recruit, train and equip new combatants;• existence of an internal regulation or a code of conduct;• commanders have a minimum capacity to control the members of the group and thus to ensure respect for IHL;• control of territory. | MINIMUM LEVEL OF INTENSITY: Main indicative factors of intensity of the violence: <ul style="list-style-type: none">• number, duration and gravity of the armed confrontations / clashes;• number of fighters/units deployed on both sides and type of government forces involved;• types of weapons used;• number of military and civilian victims; extent of damage caused to objects;• effects of the violence on the civilian population (e.g. displacement). | |
| Other situations of violence | Police, security vs military, para-military forces group(s) (large number of individuals). The groups can be organized or not. OR Individuals vs individuals, group(s) | LOWER INTENSITY: - e.g. riots, demonstrations, oppressive regimes with isolated, sporadic acts of violence, mass arrests, enforced disappearances | INTERNATIONAL HUMAN RIGHTS LAW + national law (IHL does not apply) |



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Useful sources for classification-related matters:

- the **Geneva Academy's Rule of Law in Armed Conflicts (RULAC) Project** (www.adh-geneva.ch/RULAC), which classifies armed conflicts all around the world, drawing on information collected from various sources, including international and regional organizations, criminal tribunals, NGOs and States.

- ICRC

The International Committee of the Red Cross (ICRC) establishes the legal status of different situations in order to determine the applicable law. It adopts a practical approach to the issue, taking note of the views expressed by various interested parties – States, armed groups, international organizations, the UN Security Council, courts, etc. – while giving primary consideration to its own factual and legal analysis. In principle, the ICRC communicates its view publicly, but may refrain from doing so for humanitarian reasons.

On what authority does the ICRC determine whether a situation of violence amounts to an armed conflict?

In order to fulfil its humanitarian mandate in a given situation of violence, the ICRC assesses whether or not it is an armed conflict. This allows the ICRC to refer to the applicable rules in its dialogue with those involved in the violence. Although the ICRC's legal classification of a situation of violence does not bind States, the ICRC's specific mandate under the Geneva Conventions, their Additional Protocols and the Statutes of the International Red Cross and Red Crescent Movement and its historic role in the development of IHL gives a particular weight to its classifications, which States must consider in good faith.

How does the ICRC determine whether a situation of violence is an armed conflict?

The ICRC takes great care in analysing a situation of violence with the aim of determining the applicable legal framework. It carries out its own independent assessment, relying preferably on first-hand information collected by its field delegations, or failing this on credible and reliable second-hand sources.

When it determines that there is an armed conflict, what is the ICRC's policy regarding the communication of its classification?

Once it has concluded that a situation of violence attains the threshold of an armed conflict, in principle the ICRC will first and foremost, and as soon as possible, share its legal reading bilaterally and confidentially with the parties to the armed conflict. In doing so, it aims to initiate a dialogue with each of the parties on the measures they are taking to respect IHL. The ICRC will later communicate its classification publicly. In exceptional cases, the ICRC may decide to defer the sharing of the classification with the parties and/or its public communication, for example in situations of urgency where the humanitarian needs are great and there is a need to focus on accessing to and assisting the population, or in situations where its classification could be politically instrumentalized by the parties to the conflict.