

Reading Between the (Front) Lines: Naming the War Is Half the Battle – Palestine and Ukraine

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Abstract: The classification of armed conflicts under international humanitarian law (IHL) carries critical legal and humanitarian consequences, particularly regarding the applicability of the Geneva Conventions, the status of combatants, and the protection of civilians. Despite the rise of hybrid and asymmetric warfare, conflict typologies—namely, international armed conflict (IAC) and non-international armed conflict (NIAC)—are often treated as binary. This research addresses a significant gap by comparatively analyzing the armed conflicts in Palestine and Ukraine, both of which challenge existing classifications due to the involvement of non-state actors, foreign interventions, and varying degrees of territorial occupation and control. The study employs a doctrinal legal method, drawing on core international humanitarian law (IHL) instruments (e.g., the Geneva Conventions and Additional Protocols), key jurisprudence (Tadić, Nicaragua), and scholarly contributions. It integrates a comparative structure to highlight how variables such as actor typology, command structure, external support, and regional political dynamics influence conflict categorization. Findings show that both cases illustrate legal ambiguities: Ukraine presents a dominant International Armed Conflict (IAC) with Non-International Armed Conflict (NIAC) traits in eastern regions, while the Israel-Palestine conflict oscillates between NIAC and IAC criteria depending on the framing and territorial context. This analysis also reveals the strategic manipulation of legal categories by state and non-state actors, emphasizing that classification is not a purely legal determination but a politically loaded act with implications for accountability, legitimacy, and the regulation of force. Ultimately, the study argues that the binary IAC/NIAC framework struggles to reflect the complexity of modern warfare, underscoring the need for more adaptable and context-sensitive legal interpretations.

Keywords: international humanitarian law (IHL); armed conflict; conflict classification; Ukraine; Palestine

Introduction

Conflict classification has been a long-standing issue in the international sphere. It has a direct impact on how International Humanitarian Law (IHL) is applied, especially in terms of the limitations it imposes. Thus, this research aims to construct a comparative case study about the classification and evolution of modern armed conflicts, focusing on the cases of Palestine and Ukraine. One of the most important objectives is to analyze how state and non-state actors change the typologies of conflicts and how political, organisational, and territorial factors influence the classification of an armed conflict. These geopolitical confrontations underscore the significance of conflict studies, as they threaten regional security.

Firstly, I will approach the legal definitions of the key concepts needed to elaborate a concise but relevant analysis. For example, what defines an armed conflict, and how are they classified? I will include aspects related to coalitions between different state actors, cross-border military interventions, the role of armed groups (both centralised and decentralized), as well as the impact of territorial occupation, pinpointing how these variables influence conflict classification. At the core of this research sit the Geneva Conventions and both Additional Protocols, which provide some distinctions between international armed conflicts (IAC) and non-international armed conflicts (NIAC).

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Particular attention is given to how the structure and command of armed groups, such as the presence or absence of centralized leadership, influence classification.

The body of this research will use as methodology a comparative examination of these two contemporary armed conflicts (Palestine and Ukraine), following a mirrored structure. Rather than presenting the cases one by one, I believe that a more integrated approach will eventually illustrate the particularities of each case under international law, allowing for a direct parallel between actors, organisational structures, foreign involvement, territorial control, and legal controversies. This parallel highlights the similarities and divergences between the two conflicts, as well as how political, military, and legal dynamics shape the classification of modern warfare as either international or non-international.

I believe this research is necessary to understand better the interaction between legal definitions, political implications, and combat realities when it comes to armed conflicts in an attempt to bridge the gap by offering a comparative analysis of how different variables (actors involved, foreign interventions, organisational structure, and territorial control) interact with legal norms to influence the classification of conflicts. The added value of this study lies in the connections it highlights between the legal process of classifying a conflict and the consequences this has for the application of International Humanitarian Law (IHL), the legitimacy of violence, and the accountability of the involved parties.

Starting from the applications of *jus ad bellum* and *jus in bello*, this research aims to illustrate how the classification of a conflict influences international perceptions regarding the justifications for the use of force. Although the objective of the United Nations is to promote peace through diplomatic instruments, international law does not prohibit war. However, it dictates the rules of war, as respecting *jus in bello* is fundamental for all the actors involved in an international conflict, which is why the framing of a conflict is essential when it comes to obtaining legitimacy.

To justify an armed intervention, the parties involved must utilize the international legal framework and demonstrate that they have adhered to the regulations and are entitled to their actions. This contributes to two main perspectives regarding conflict classification: we are either dealing with an NIAC, where the state is forced to act to preserve its institutions, security, and even existence, or an IAC, where the only reason for the legitimate use of force is self-defense.

To better illustrate such complex theoretical intricacies, this study focuses on the conflicts (Russia-Ukraine and Israel-Palestine), as they present some similarities but also include the specific nuances of different approaches to conflict classification that we need to comprehend armed conflicts fully. Ultimately, by comparing the complexities of these contexts, the research seeks to provide a deeper understanding of how legal categories are continually negotiated in response to evolving strategic interests. Thus, the research question arises: How do the involved actors, internal structures, external interventions, and territorial control shape the classification of modern conflicts?

Conceptual and legal frameworks

This chapter presents the legal criteria for classifying armed conflicts as International Armed Conflicts (IAC) or Non-International Armed Conflicts (NIAC). It highlights the consequences of this classification, for example, in terms of the status of combatants, prisoners of war, and the applicability of International Humanitarian Law. It introduces key concepts such as organisational structure, foreign involvement, and territorial control.

The term “international armed conflict” does not appear as such in the Hague or the Geneva Convention, as it was first codified in the Additional Protocol I in 1977. For

example, Article 2, common to the four 1949 Geneva Conventions, defines three main scenarios where the Conventions are applicable: declared war, armed conflicts between two or more parties (even if not formally recognized), or in the case of occupied territory (Crawford & Pert, 2024). Although a declared war or an armed conflict between two states could be practically defined as an “international armed conflict,” there was no need for such a category yet. The primary objective was to establish a legal framework for the application of International Humanitarian Law, thereby creating as much space as possible for humanitarian intervention.

The central question arises: what is an armed conflict? According to the ICRC, if a state uses armed force against another, regardless of the duration or intensity, it constitutes an armed conflict (ICRC, 2011). From that point forward, International Humanitarian Law (IHL) is applicable. There is, of course, a tremendous amount of fragmentation regarding this definition, as different political, practical, and strategic reasons lead certain states to consider it too broad. These states argue that certain actions can be viewed as isolated events and contend that intensity does, in fact, matter. This article adopts the ICRC’s definition, and situations will be analyzed from that point of view: an armed conflict begins the moment force is employed.

Non-international armed conflicts have evolved from the basic understanding of “civil war,” when the conflict was perceived to be internal to the state and thus not subject to International Humanitarian Law (IHL), to our understanding today. As recent and contemporary history has taught us, our world is so interconnected that actions taken in one state can have repercussions for other states as well, which led to the concept of “recognition of belligerency” (McLaughlin, 2020), allowing the LOAC to be applied. However, to minimise abuses, it is not that easy to recognise insurgents as belligerent parties under international law:

“It is a customary rule of the Law of Nations that any State may recognize insurgents as belligerent Power, provided (1) they are in possession of a certain part of the territory of the legitimate Government; (2) they have set up a Government of their own; and (3) they conduct their armed contention with the legitimate Government according to the law and usages of war” (Oppenheim, 1920-1921).

Due to challenges encountered during the negotiations for the Geneva Conventions, it was difficult to agree on a definition of NIACs, as many states supported that it is necessary to differentiate between internal unrest, civil war, internal armed conflict, or simply rebellion, the Common Article 3 resulted in broad wording, and it includes conflict between armed groups even if the state is not involved, again, if they meet specific criteria, such as: “insurgents are organized, with control over some territory, and are able to obey the laws of war” (Crawford & Pert, 2024, pp. 65-66).

When does an NIAC become an IAC? Some international armed conflicts begin directly due to disagreements between two states and tensions that escalate to war (recognized or not). However, this article is not as concerned with those situations as it is with the shift from NIAC to IAC, as both conflicts that will be analysed present an undefined line of classification. For the sake of having a point of reference, this article follows the model of the classification of the Syrian conflict, that has been considered NIAC in 2012 (Nebehay, 2012) after the civil war broke out in the aftermath of the Arab Spring, then classified as IAC with the intervention of the United States in 2017 (Nebehay, 2017).

Three main hypothetical scenarios arise. One possibility is the existence of two separate, parallel NIACs between a government and each non-state armed group involved. A second hypothesis suggests that if a state supports a non-state actor fighting against another state, the conflict may simultaneously qualify as an International Armed Conflict (IAC) between the two states and a Non-International Armed Conflict (NIAC) between the supported group and the host state. A third scenario is that the entire situation continues to be governed by a single NIAC classification. However, the foreign power

becomes a party to the conflict by virtue of its support without creating a new conflict altogether. Each of these models has implications not only for the legal status of actors but also for states' obligations and the protections afforded to civilians (Crawford & Pert, 2024, pp. 84-91).

When the classification of conflicts as international or non-international is being theorized, there are many variables to be taken into account: there might be a localized conflict that crosses borders, armed groups operating from one state might conduct hostilities in another one, foreign governments might interfere and support certain actors to destabilize the regime in another state, etc. For example, the cycle does not only go in the escalating direction, as conflicts can also de-escalate, following the Afghanistan model from 2001 (Annyssa, Giacca, & Casey-Maslen, 2011), when initially the conflict was international between the United States and the Taliban government but then turned non-international when the new-elected government took over the fight against the Taliban, benefiting from American support.

The support of a foreign government in the situation of a NIAC between a state and an armed group is another aspect we need to look at. Usually, a foreign government will support another government, as it requires institutional, formal relations, request of help, or at least approval of said foreign support, and it also takes many forms: it can be strictly financial or logistical, providing arms and intelligence, or it can be more direct, through the deployment of foreign troops into the territory (D'Cunha, de Saint Maurice, & Ferraro, 2024). However, there have also been occasions of foreign government support of armed groups, especially in the hybrid wars we are now becoming more and more familiar with. We are provided with a clear example of this particular situation in the 1986 case of *Nicaragua v. United States*, where the Court found that:

"It is in the Court's view established that the support of the United States authorities for the activities of the contras took various forms over the years, such as logistic support, the supply of information on the location and movements of the Sandinista troops, the use of sophisticated methods of communication, the deployment of broadcasting networks, radar coverage, etc. The Court finds it clear that some military and paramilitary operations by this force were decided and planned, if not actually by the United States advisers, then at least in close collaboration with them, and based on the intelligence and logistic support which the United States was able to offer, particularly the supply aircraft provided to the contras by the United States" (*Case Concerning Military and Paramilitary Activities In and Against Nicaragua - Nicaragua v. the United States of America*, 1986).

The 1995 *Tadić* case then proceeds to address the issue of overall control raised by such situations. If the actions were deemed not attributable to the United States in the *Nicaragua* context, what exactly is overall control, and how is it determined? It is in this context that the *Tadić* Test was born, as ICJ stated:

"Control by a State over subordinate armed forces or militias or paramilitary units may be an overall character (and must comprise more than the mere provision of financial assistance or military equipment or training). This requirement, however, does not go so far as to include the issuing of specific orders by the State, or its direction of each individual operation. [.....] The control required by international law may be deemed to exist when a State (or, in the context of an armed conflict, the Party to the conflict) has a role in organising, coordinating, or planning the military actions of the military group, in addition to financing, training and equipping or providing operational support to that group. Acts performed by the group or members thereof may be regarded as acts of de facto State organs regardless of any specific instruction by the controlling State concerning the commission of each of those acts". (*Prosecutor v. Dusko Tadić - Appeal Judgement*, 1999)

Still, additional factors beyond the role and operationality of armed groups need to be considered. The question remains: how does such support and intervention by foreign states influence the classification of conflicts? Does it influence the classification at all? For context, this article follows the definitions provided by the ICRC:

- “1. International armed conflicts exist whenever there is resort to armed force between two or more States.
2. Non-international armed conflicts are protracted armed confrontations occurring between governmental armed forces and the forces of one or more armed groups, or between such groups arising on the territory of a State [party to the Geneva Conventions]. The armed confrontation must reach a minimum level of intensity and the parties involved in the conflict must show a minimum of organisation.” (ICRC, 2008)

These definitions, however, do not provide a complete picture, as foreign interference is not mentioned. To this end, another clarification is needed that could support the contextualization of NIACs and foreign powers:

“[...] only one single NIAC exists, i.e., the pre-existing NIAC, but the intervening power becomes a new party to this conflict, fighting alongside the supported party. Therefore, the law of NIAC becomes applicable to the intervening power even before the traditional intensity threshold for a distinct NIAC is fulfilled or even if this threshold is never reached by its intervention itself” (Ferrero, 2015).

A problem generated by this approach is that maintaining a NIAC classification, even in the case of third-state involvement, which in itself is a sign of the conflict's extent, provides significantly less protection for the victims than classifying it as an IAC (Farley & Pradhan, 2025). Thus, in contrast to the last definition, this article's position is that once a foreign third party becomes involved, even if the conflict remains within the geographic territory of the state where it originated, the conflict instantly becomes an international armed conflict (IAC).

Conflict classification carries significant implications for the human element of fighting, encompassing combatants, prisoners of war, civilians, and victims. For example, classifying a conflict as a NIAC has the implicit effect of legitimizing group-based targeting policies. When criminal organizations are recognized as non-governmental parties to a NIAC, certain members are at risk of acquiring a “continuous combatant function,” making them lawful targets “on a continuous basis” only because of their affiliation, regardless of the immediate threat they pose (Melzer, 2009). Moreover, legitimate targets also include civilians who directly participate in hostilities. They may be lawfully targeted, even if they do not pose an immediate threat, and as long as they are not injured, captured, surrendered, or detained (Kalmanovitz, 2023).

Considering the geopolitical context in which the conflicts occur, it is necessary to clarify the meaning of “modern warfare.” Modern wars are characterized by hybrid conflicts, asymmetry, new technologies, legal and normative ambiguities, and transnational interests (NATO, 2023). These characteristics challenge the traditional duality of international law, particularly when it comes to distinguishing between combatants and civilians, state and non-state actors, or legitimate and illegitimate use of force. While the Middle East has a long history of hybrid wars and variable geometry, as it is known for its shifting alliances, strategies, and engagement in conflicts according to changing interests, in European proximity, this phenomenon is a relatively new occurrence. The war in Ukraine marked a turning point, not only because of its scale and visibility but also because of how it brought to light conventional and irregular tactics, cyber operations, disinformation, and external support. Thus, when analyzing the classification of armed conflicts in these regions, it is essential to consider how modern warfare influences legal interpretations and highlights the limitations of existing legal categories that require evolution to reflect the complexity on the ground.

It is also relevant to consider the historical context of the two conflicts. The Palestinian cause has long been central to the political discourse in the Arab world, shaping regional alliances and generating divergences throughout the negotiation of various peace agreements, from the historical Camp David Accords to the more recent Abraham Accords. As a result, the classification of the conflict itself has evolved, reflecting not only shifts on the ground but also changing political narratives and legal strategies. This historical legacy differs from the Ukrainian context, where tensions have intensified primarily since the end of the Cold War, driven by the expansion of the European Union and NATO. In this region, Russia's aggression has become more evident in recent years, particularly since the 2014 annexation of Crimea and the full-scale invasion launched in 2022. Therefore, while the Israeli-Palestinian conflict has been shaped by decades of geopolitical contestation and regional identity, the Ukrainian case reflects a newer set of geopolitical realities connected to competing visions of security, sovereignty, and regional integration.

Now, we can connect the variables and present a more complex picture, enabling an in-depth comparative study of the two conflicts: Israel-Palestine and Russia-Ukraine.

The elephants in the room: Palestine and Ukraine

This part of the study represents the practical application of previously defined concepts. It is structured into five sub-chapters, each presenting how the corresponding variable applies to the Palestinian context and then to the Ukrainian context, allowing for a comparative, in-depth picture of different forms taken by the same concept. The goal is to respond as thoroughly as possible to the research question.

Actors and internal political context

Palestine

In the Palestinian context, the internal split between the Palestinian National Authority in the West Bank and Hamas in Gaza remains a critical factor in understanding the nature of the conflict. Since 2006, Hamas has exercised de facto control over the Gaza Strip, while PNA is recognized as the legitimate representative of the Palestinian people by a significant part of the international community. Despite being elected and having some governing functions, Hamas is still legally considered a non-state actor. This classification directly impacts the classification of the conflict with Israel: can it be treated as an IAC as Hamas has a governing role, or does its non-state characteristic maintain the conflict as NIAC?

The Palestinian National Authority has been recognized internationally as the legitimate representative of Palestinians, particularly by the United Nations, which granted Palestine observer status, and by the European Union. Though it maintains administrative control over parts of the West Bank, it lacks full sovereignty or control over borders, airspace, or defense, and Israel has developed some settlements on the territory (Ballas, 2022). Despite having limited jurisdiction, the PNA's recognition could potentially contribute to the IAC classification. Its lack of full statehood under international law contributes to the conflict falling into a sort of classification grey zone. Moreover, the PNA's cooperation with Israel in certain administrative and security matters (Bar-Tal, 2022) further complicates its role as an actor in the conflict while diminishing its implication in the current escalations centred in Gaza.

Hamas came to power through the 2006 elections and has exercised de facto control over the Gaza Strip while being considered a non-state armed group by the majority of the international community. This lack of recognition has a crucial role in how IHL is applied, as confrontations between Hamas and Israel are often considered NIAC. Nonetheless, the intensity, duration, and coordination of hostilities, as well as Hamas'

effective control over the territory, which will be analyzed in the following pages, fulfill the legal thresholds of Common Article 3 and the Additional Protocol II.

Israel, as a fully recognized sovereign state, is the only actor that fully meets the criteria to be a party to an IAC. Its refusal to recognize the state of Palestine and its classification of Hamas as a terrorist organization influence its legal framing of hostilities. From Israel's perspective, as it has stated multiple times, engagements with Hamas are internal security operations, classifying the conflict as NIAC. Another dimension of the conflict classification is represented by the control it exercises over Palestinian territories, particularly in Gaza, which enters the sphere of occupational law, and it challenges the NIAC-IAC dichotomy.

Ukraine

In Ukraine, the conflict debuted with an increase in internal unrest (although factors of said unrest can be debated), particularly in the eastern regions of Donetsk and Luhansk, but another important aspect to be taken into consideration in the 2014 annexation of Crimea by the Russian Federation. Initially characterized as NIAC between the Ukrainian state and separatist forces, the situation escalated significantly. The Russian invasion in 2022 clearly established an International Armed Conflict (IAC). However, as will be analyzed, some interpretations support the hypothesis that it has been an IAC since 2014, considering the extent of Russian political and military involvement.

Ukraine, as a fully recognized sovereign state, is the principal subject of aggression in both 2014 and 2022. Although Ukraine has consistently framed the conflict as an IAC from the beginning, pointing out Russia's covert involvement and asking for full IHL protections applicable in international warfare, the Eastern conflict before 2022 has been primarily considered NIAC, thus falling under Common Article 3 and AP II.

Russia has played a central role in shaping the legal and military character of the conflict. Although it is considered the aggressor, it managed to contribute to the initial NIAC classification of the conflict in Eastern Ukraine for as long as the law allowed. While Crimea has been considered part of an IAC from the start, it has been approached separately. Following 2022, Russia's "special military operation," as initially described, has undoubtedly drawn the conflict into the international sphere, thereby activating the full range of Geneva Convention protections and rules on occupation.

The separatist regions of Donetsk and Luhansk operated in the legal gap between non-state armed groups and de facto authorities, similar to Hamas. Their legitimacy remains unrecognized by the international community, and their military and political dependence on Russia raises questions about their affiliation. Their role exemplifies how proxy wars destabilize the conventional International Humanitarian Law (IHL) categories and how recognition, or its absence, plays a decisive role in conflict classification, as it falls under Non-International Armed Conflict (NIAC) regulations if they are considered independent actors and under International Armed Conflict (IAC) regulations if they are considered either fully sovereign and autonomous regions or under Russian control.

NATO, the European Union, and the United States have not participated directly in the conflict. However, their political, financial, and military support for Ukraine has introduced questions about third-party involvement. Under IHL, foreign assistance alone does not alter a conflict's legal classification; however, it does raise questions about the Tadić test when Ukraine's actions are analyzed. Their involvement contributed to Russia's framing of the conflict, accentuating geopolitical confrontation in the region.

Organizational structures and armed groups

Palestine

The organisational structure of Hamas is central to its legal classification. The extent to which Hamas operates as a centralized and hierarchical body, as opposed to a fragmented and decentralized movement, affects its recognition as a party to an armed conflict under international law. If Hamas lacks the internal structure and command-and-control capacity, parts of its network might be considered isolated militant groups rather than combatants, complicating both targeting and classification under IHL.

The risk that comes with classifying a conflict when armed groups are involved as an NIAC, thus disqualifying it from being fully recognized under IHL, is highlighted by the reality of intense hostilities on the ground, where the violence is sustained and organized despite a lack of centralized control (Vite & Gallino, 2024).

In order for the conflict to be considered a NIAC, the organization of armed groups is taken into consideration: they must have an internal structure and organization that allows them to plan and execute sustained military operations, and they must be able to meet at least the basic requirements of IHL (Crawford & Pert, 2024). The level of organization can be determined by different factors, such as the existence of headquarters; designated zones of operation; the ability to procure, transport, and distribute arms; a command structure; internal disciplinary system; wearing of uniforms; military training, and the ability to control territory (Crawford & Pert, 2024).

Hamas operates from Gaza with a centralized leadership and has distinct political and military branches. It maintains control over the territory, exercises authority through governance-resembling structures, and conducts military operations through its armed wing, the al-Qassam Brigades (Wagemakers, 2025). The group has a command hierarchy and provides military training, indicating a high degree of organization.

Hamas also demonstrates the logistical capacities characteristic of a NIAC party. It acquires, transports, and deploys weapons, including rockets and firearms. Its fighters often wear uniforms, further distinguishing them from civilians, as clearly noted in the public hostage exchange with Israel during a short ceasefire deal (Al-Jazeera, 2025). Since it has taken control of Gaza, Hamas has governed the area, enforced laws, and maintained public order – functions resembling those of a state authority. Taken together, these elements suggest that Hamas meets the organizational and operational criteria necessary for classification as a party to an NIAC under international humanitarian law (IHL).

Ukraine

In Ukraine, separatist armed groups operated with some degree of autonomy during the early period of the conflict. However, their structural and operational dependence on Russia raises specific questions about their de facto independence. These informal associations raise concerns about whether such forces should be considered as proxies under Russian command, reinforcing the IAC classification of the conflict.

In Ukraine, as opposed to Palestine, where the Palestinian Authority did not recognize Hamas, the separatist groups (Donetsk People's Republic and Luhansk People's Republic) have signed peace agreements, respectively, the Minsk Agreements 2014-2015 (Dearden, 2014; Weaver & Luh, 2015), which brings a certain perceived legitimacy and influences the dynamics of the NIAC perspective, but without international recognition, IHL does not apply. Regarding IHL, the fact that the separatist groups engaged in peace negotiations does not change their status as non-state actors involved in armed conflict.

As far as meeting the criteria for classification as a party to a NIAC, both DPR and LPR have established headquarters and maintained control over defined territories since 2014, built a functional command structure with political and military leadership (Malyarenko & Kormych, 2024). These groups have also acquired and used heavy weaponry; they use identifiable uniforms and provide military training, often with foreign support. Despite relying heavily on external aid, particularly from Russia, they have sustained armed operations and governed portions of Ukrainian territory, fulfilling the key organizational and operational requirements for recognition under IHL.

However, while the separatist regions initially demonstrated some degree of autonomy, their increasing dependence on Russia for arms, training, intelligence, and even direct military support (Ambrosetti & Massoletti, 2024) raises concerns about their classification as non-state entities. From the perspective provided by the Nicaragua case, logistical support is insufficient to attribute the actions of armed groups to a foreign state, thereby maintaining Ukraine as a NIAC; however, the Tadić decision renders it an IAC. In Eastern Ukraine, the fact that Russia is providing support, training combatants, and coordinating with separatist forces clearly suggests at least the existence of “overall control,” as the initial Nicaraguan “effective control” is harder to prove. This reflects the hybrid warfare model, in which non-state actors act as proxies for foreign belligerent forces. Applying the Tadić test, the separatist regions may be considered under certain control of the Russian state, with the IAC classification potentially placing greater responsibility on Russia under IHL.

External interventions and foreign fighters

Palestine

As far as the Palestinian context is concerned, Iran has played a critical role in supporting Hamas through training, funding, and provision of weapons. The degree of Iranian involvement is central to the legal debate: at what point does foreign support transform a NIAC into an IAC? This question becomes even more complex when foreign fighters and volunteers linked to Hamas, some of whom are associated with transnational terrorist networks, such as the Yemeni Houthis, raise additional legal and operational concerns under IHL.

The existence of foreign support from Iran complicates the classification of the conflict. Iran provides Hamas with training, funding, intelligence, and weapons (Skare, 2023), thus adding another perspective from which the conflict can be seen as IAC. Under the Nicaragua standard, Iran’s involvement is insufficient to generate an international dimension of the conflict. Regarding the Tadić test, although some categories are met, and there is no denying the ideological and material ties, the evidence is insufficient to render the conflict international (Hemptinne, 2023).

The presence of foreign fighters, such as volunteers or militants associated with the Houthis, or other armed groups, such as the Lebanese Hezbollah, loyal to Hamas’ cause, take the conflict into another sphere of analysis. Suppose these fighters act independently or in solidarity with Hamas but without being sent or under the direct control of another state. In that case, their involvement can’t contribute to re-classifying the conflict under IHL. However, if a state, either Iran or another actor such as Yemen through the Houthis, is shown to send or control foreign fighters, it can prove state involvement and determine an IAC. These implications are complex, and the very nature of cross-border armed networks and their covert operational model require separate analysis, which is not the objective of this article. However, their existence must be considered when presenting the variables that determine conflict classification in this context.

Lastly, the geographical component must be considered (ICRC, 2024). When armed groups aligned with Hamas launch attacks from outside of the Gaza Strip, with the

Houthis attacking Israel from Yemen (Fisayo-Bambi, 2025), the conflict can be seen as a parallel IAC in addition to the NIAC in Gaza. These scenarios underline the limitations of conflict classification categories and modern warfare.

Ukraine

In the Ukraine conflict, Russia's support of operations extends beyond diplomatic and military aid. The participation of foreign fighters, such as the Wagner Group on Russia's side and international volunteer fighters on the Ukrainian side, adds another layer to the classification of the conflict. Moreover, NATO's role in aiding Ukraine needs to be considered, as well as North Korean support for Russian operations, especially in terms of troops on the battlefield, which is the concern of this chapter.

The participation of non-state armed actors in this conflict, such as the Wagner Group, offers another perspective on the importance of conflict classification. Although the Wagner Group is a private military company, it has executed Russian orders, bringing into question the problem of control, as under the Tadić test, Russia has "overall control" over the mercenaries, reinforcing the IAC classification. However, the legal status of Wagner combatants is ambiguous; for example, they are not automatically entitled to combatant or prisoner of war status unless they meet the criteria for lawful combatants, such as being part of the armed forces, wearing distinctive signs, following the command structure, and complying to IHL regulations (Tambay & Khalfaoui, 2023).

As far as Ukraine is concerned, international volunteers from various countries have joined the armed forces or acted independently, which are two clear and separate categories. Volunteers who formally enlist in Ukraine's armed forces are generally considered lawful combatants, thus entitled to POW status if captured; meanwhile, those who fight independently without proper integration into official structures of the state risk being classified as unlawful combatants (Crawford, 2010). Another issue that arises in this context, which warrants further study, is the need to distinguish between mercenaries (excluded from combatant status under Article 47 of AP I) and volunteers who join the fight due to ideological or political motives. Although the conflict is currently classified as an IAC, the involvement of non-state actors on both sides generates issues related to an NIAC, especially regarding combatant status, as the thin line between categories affects both treatment upon capture and legitimacy of actions under IHL.

Finally, there is also the involvement of NATO states and actors like North Korea in this conflict, playing as third parties, at times more directly, and at times remaining a background supporter. While NATO provides substantial military assistance, there is no legal evidence that NATO members have entered the conflict as co-belligerents, meaning their involvement does not automatically render the conflict IAC. On the other hand, North Korean military aid and the presence of North Korean troops on Russian-controlled territory (Guinto & Mackenzie, 2025) constitutes direct state participation in hostilities. This reinforces the IAC classification and attributes state responsibility for violations.

Occupation and territorial control

Palestine

The legal status of the Gaza Strip constitutes another debatable dimension. Although Israel officially disengaged from Gaza in 2005, it retained significant control over the territory's airspace, borders, and maritime access. This brings into discussion whether Gaza remains under de facto occupation, which would activate the legal framework of occupation law under the Geneva Conventions. Precedents such as ICJ's advisory opinion on Israel's Wall provide support in the evaluation of present criteria for effective control and responsibility in such scenarios:

“The Court went on to consider the consequences of these violations, recalling Israel’s obligation to respect the right of the Palestinian people to self-determination and its obligations under humanitarian and human rights law. The Court stated that Israel must put an immediate end to the violation of its international obligations by ceasing the works of construction of the wall and dismantling those parts of that structure situated within Occupied Palestinian Territory and repealing or rendering ineffective all legislative and regulatory acts adopted with a view to the construction of the wall and establishment of its associated régime” (International Court of Justice, 2003).

While Common Article 3 of the Geneva Conventions offers flexible protection regardless of borders, the territorial limitations imposed by Additional Protocol II raise issues when interpreting instances of violence that cross State boundaries. There is currently no legal consensus, but the prevailing view remains that the nature of the parties involved, rather than the geography of the conflict, determines the classification. Still, as cross-border and transnational violence becomes increasingly common, calls for re-evaluating or expanding current legal frameworks are growing louder, underscoring the inadequacy of a binary distinction between international and non-international armed conflicts in addressing today’s complex operational realities. The Israel-Palestine war is a perfect example of how territorial ambiguity influences conflict classification.

The Geneva Conventions address the status of occupied territories, as Common Article 2 encompasses territories occupied by a foreign army, whether with or without resistance. (Crawford & Pert, 2024, p. 57) Formally, the Palestinian territories taken by Israel after the Six-Day War are recognized as an occupation (Konchak, 2025).

Moreover, in Gaza, where, at times, civilians have directly participated in hostilities, the application of IHL becomes more complex. The NIAC classification was initially created for a situation similar to a civil war (implying the existence of an internationally recognized government facing internal civilian unrest, rebellion, armed groups, etc.). When it comes to Gaza, Israel (rather than the Palestinian Authority) is the state that exercises military force against civilians who may be aligned with non-state actors like Hamas, at least in actions, if not ideologically, from the need for self-defense.

This situation challenges the interpretation of NIAC regulations. Since Gaza is considered an occupied territory and Israel is the occupying power, the conflict has both IAC and NIAC elements. The presence of foreign military operations led by Israel brings another dimension of analysis, as the foreign state’s military actions against civilians could be considered as part of an IAC under IHL (Malik, 2023), taking place simultaneously with the NIAC involving Hamas.

However, the fact that Israel, as the occupying power, is conducting military operations in an area it controls further complicates the context since international law holds the occupying power to stricter standards concerning the protection of civilians under occupation (Diamond, Nohle, & Schmidl, 2024).

Ukraine

In Ukraine, the 2014 annexation of Crimea marked a clear case of occupation under international law, fulfilling the conditions as defined by Article 42 of the Hague Regulations and Common Article 2 of the Geneva Conventions; as the territory now follows Russian laws, the administration is Russian and Russian citizenship has been offered. The Russian control over parts of Eastern Ukraine raised similar concerns. Since 2022, Russia has expanded its presence and declared annexations of additional territories, reinforcing the occupation perspective and, at the same time, confirming the conflict as a definitive IAC.

Initially, the armed conflict in Donbas was classified as non-international based on the criteria of local insurgency and internal unrest. Russia denied direct involvement, and the region's dependency on Russian support suggests a proxy relationship, as per the Tadić criteria. Thus, the line between NIAC and IAC was circled by legal ambiguity. Only since February 2022, with the full-scale invasion and the deployment of Russian troops on Ukrainian territory, has the conflict classification become clearer, falling under the framework of the Common Article 2 of the Geneva Conventions.

Still, some elements of NIAC persist. Russian involvement is also conducted through coordination with armed groups, which, when combined with the continued use of private military companies like Wagner (Ferreira, Kostiuk, & Rodrigues, 2023), can indicate the presence of both International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC) dynamics. The consequences emerging from such a variable legal framework become evident when the application of IHL is considered, directly affecting the status of captured fighters and the protection of civilians in these particular regions.

Use of force and external impact

Palestine

In the case of Palestine, the conflict has often been framed as NIAC, both by Israel and other international actors, specifically for its asymmetric nature of the engagement and involvement of non-state armed groups (Malik, 2023). This framing aims to limit the applicability of specific IHL standards, typically reserved for IACs, such as the full protections afforded to prisoners of war and rules governing occupation, as outlined in the Geneva Conventions and Additional Protocol II. Classifying the conflict as NIAC reduces Israel's obligations under IHL and justifies its military operations as counter-terrorism measures aimed at non-state actors that represent a threat to its security and sovereignty (Kretzmer, 2012). At the same time, Palestinian actors have been leveraging alternative legal and political narratives, often emphasizing the occupation and arguing for recognition of the conflict's international character to access stronger protections and political legitimacy (International Court of Justice, 2003).

On the other hand, Israel's justification for military measures often involves the right to self-defense under *jus ad bellum*, supported by the claim of defending its territorial integrity and population from attacks from Gaza and other territories (Dinstein, 2016). The classification of conflict influences not only Israel's international legal obligations but also its operational methods, including targeting decisions and detention policies (ICRC, 2009). The contested status of the territories and the ambiguity regarding occupation complicate the application of IHL norms, creating space for legal and political contestation.

Ukraine

In this case, Russia has strategically framed its military intervention as a "special military operation" aimed at protecting ethnic Russians based on alleged threats from Ukrainian authorities (OHCHR, 2022). Russia's avoidance of recognizing the conflict as IAC had the initial intention of avoiding the application of IHL; thus, it did not justify its involvement as self-defense, remaining outside of the legal framework (Bartolini, 2024). However, Ukraine, together with a significant part of the international community, did classify the conflict as an IAC, which activates stricter legal restrictions regarding the conduct of hostilities, the treatment of prisoners, and the protection of civilians (ICRC, 2023).

The strategic manipulation of conflict classification by states and non-state actors alike in both cases underlines how these legal categorizations serve different political objectives. Classification impacts the legal status of combatants, the applicability of protections for detainees, the targeting of civilians or civilian infrastructure, and the mechanisms for holding them accountable. Therefore, the choice to frame a conflict as

international or non-international directly impacts the operational latitude of the parties involved and shapes the international community's response.

Conclusions

This comparative analysis of the conflicts in Palestine and Ukraine highlights the challenges of classifying armed conflicts under international humanitarian law. In the case of Palestine, Israel's status as an occupying power, the prolonged nature of the conflict, and the presence of transnational non-state armed groups support the predominant classification as an international armed conflict, even without the recognition of Hamas as a state authority. In Ukraine, although the conflict began as a non-international armed conflict, the Russian military support, territorial occupation, and administrative control justified its reclassification as an IAC, especially after February 2022.

These dynamics illustrate how modern warfare blurs the distinction between International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), pushing the limits of traditional legal frameworks. The involvement of foreign state support, the use of mercenaries, and the participation of volunteer fighters are crucial in determining the combatant status and the application of International Humanitarian Law (IHL).

Moreover, the comparative approach adopted by this study demonstrates the importance of examining how different variables, such as the organisational structure of involved actors, the degree of foreign interference, territorial control, and the presence of occupation, affect conflict classification across two different contexts. Applying these analytical instruments to different spaces reveals the heterogeneity of armed conflicts and the difficulty of creating a universal set of criteria for evolving geopolitical realities.

This research has further illustrated how conflict classification is often instrumentalized to legitimize the use of force and to navigate around the normative constraints of international law. Both Russia and Israel have adopted strategic legal framings of their military actions to reinforce their positions: Russia by initially denying direct involvement and later invoking self-defense to justify territorial advances, and Israel by framing its military operations as counterterrorism rather than conduct in an armed conflict, thereby challenging the applicability of occupation law and the rules of IACs. These choices are intentional and represent strategies that have been widely used throughout the history of armed conflicts, dating back to the institutionalization of International Humanitarian Law (IHL) with the Geneva Conventions. They directly affect the legal status of combatants, the protections afforded to civilians, and the potential for prosecuting war crimes or crimes against humanity under international humanitarian law.

By examining how the law is applied, contested, and framed in two high-profile and politically sensitive conflicts, this study reveals the extent to which legal categories are continually reshaped in response to power asymmetries and geopolitical strategies. The framing of the use of force demonstrates how legal norms can be deployed selectively to justify violence while limiting obligations. This reinforces the need for more rigorous legal standards and stronger accountability mechanisms to prevent the erosion of humanitarian protections in modern warfare.

Ultimately, the cases of Palestine and Ukraine underscore the need for legal adaptability in addressing hybrid, transnational conflicts. As the boundaries between international and non-international conflicts become increasingly entwined, the capacity of IHL to ensure protection and accountability will depend not only on delicate legal interpretation but also on a deeper understanding of regional conflict dynamics and the political will of international actors seeking to turn classification in their favor.

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