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LLM in Public International Law

Exploring the Anatomy of the Syrian Armed Conflicts

by

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I hereby declare that I have read and understood the regulations governing the submission of postgraduate dissertations, including those relating to length and plagiarism, as contained in the LLM Manual, and that this dissertation conforms to those regulations.

To the People of Syria

ABSTRACT

The main focus of this study is the nature and classification of the Syrian armed conflicts (a problematic topic which requires analysis for its various consequences). For the purposes of international humanitarian law, to give an overall picture of Syrian armed conflicts, this paper identifies the main contenders and the conflicts between them. The study has been divided into four parts. International armed conflicts have been discussed in the first part. The second part deals with non-international armed conflicts. In the third part internationalisation of armed conflicts has been analysed. Finally, the last part has been allocated for concluding remarks.

In exploring the nature of the Syrian armed conflicts, different views found under international humanitarian law have been revisited and applied to these conflicts. Moreover, an examination of ISIS (also known as DAESH), the role of third States, namely, Iran, Russia, Turkey and the coalition forces) and non-State actors, such as the Free Syrian Army and People's Protection Units (YPG) have been considered. Furthermore, the question as to whether the Free Syrian Army or other non-State actors may be regarded as a national liberation movement has been addressed.

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List of Abbreviations

AJIL : The American Journal of International Law

AP I : Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977

AP II : Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to Protection of Victims of Non-International Armed Conflicts (Protocol II) of 8 June 1977

BYIL : British Yearbook of International Law

CA2 : Article 2 common to the four Geneva Conventions of 1949

CA3 : Article 3 common to the four Geneva Conventions of 1949

CUP : Cambridge University Press

EJIL : The European Journal of International Law

FARC : Fuerzas Armadas Revolucionarias de Colombia

FSA : Free Syrian Army

GC : The Geneva Conventions of 1949

IAC : International armed conflict

ICC : The International Criminal Court

ICJ : International Court of Justice

ICRC : International Committee of the Red Cross

ICTR : International Criminal Tribunal for Rwanda

ICTY : International Criminal Tribunal for the former Yugoslavia

IHL : International Humanitarian Law

INT'L L. STUD : International Law Studies

IRRC : International Review of the Red Cross

ISIS : Islamic State in Iraq and al-Sham

JICJ : Journal of International Criminal Justice

LJIL : Leiden Journal of International Law

LOIAC : Law of International Armed Conflict

NATO : North Atlantic Treaty Organization

NIAC : Non-international Armed Conflict (armed conflict not of an international character)

NYU J Intl L & Pol : New York University Journal of International Law and Politics

OUP : Oxford University Press

PKK : The Kurdistan Workers' Party

RCADI : Recueil des Cours de l'Académie de Droit International

SAA : Syrian Arab Army

SC : (The United Nations) Security Council

SDF : Syrian Democratic Forces

UN : The United Nations

US : The United States of America

YPG : People's Protection Units

Introduction and Brief Historical Outline

Having been home to many civilizations Syria had been under Ottoman reign for centuries where its diverse ethnic heritage had been protected. Application of the system of *millet*[1] *under* Ottoman rule helped to preserve ethnic diversity and let the people live where they used to live. After the *Pax Ottomana*[2] period, with the effect of nationalism, regions underwent ethnic cleansing and artificial borders drawn by colonial powers have left people separated[3]. Such unsettled issues have currently made an unwelcome return and created the concept of *Balkanization*[4]. It is yet to be seen if Syria's fate will prove an exception to this concept.

Four centuries of Ottoman rule in Syria was replaced by colonial domination by France with the demise of the Ottoman State after 1923. In 1946, Syria gained its independence from France. From the day of independence to 1970, the country suffered significant political instability. In 1970, Hafez Al-Assad established his authoritarian rule by a military coup. After his father[5] who had ruled Syria for thirty years, Bashar al-Assad became the new president of Syria in 2000. It did not take long before the authoritarian regime of Syria had been called into question as reflected in the Arab Spring in 2011[6]. Syrian internal violence was triggered when, in 2011, some schoolboys were arrested and tortured by the Syrian government for drawing anti-government graffiti on a wall. Soon after, the city of Daraa became the centre of major protests and demonstrations which were harshly

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[1] M. Kenanoglu, *Osmanlı Millet Sistemi: Mit ve Gerçek* [*Ottoman Millet System: Myth and Truth*], (In Turkish) (Istanbul: Klasik, 2004) at 15 *et seq*.
[2] See A. Gol, Europe, Islam and Pax Ottomana, 1453-1774 *in* S. Suzuki *et al.* (eds.), *International Orders in the Early Modern World: Before the Rise of the West*, (London: Routledge, 2014) at 38 *et seq.*
[3] See J. McCarthy, Death and Exile: The Ethnic Cleansing of Ottoman Muslims, 1821-1922, (Darwin Press, 1995).
[4] Besides the fact that there being many religious sects in Syria, researches show that there is an undeniable link between ethnicity and conflict intensification which apparently has helped Syrian internal violence to turn into major long-lasting armed conflicts. See K. Eck, From Armed Conflict to War: Ethnic Mobilization and Conflict Intensification, (2009), 53 *International Studies Quarterly* 2, at 370. See also T. Meron, War Crimes in Yugoslavia and the Development of International Law, (1994) 88 *AJIL* 78.
[5] Hafez al-Assad is known to have brutally crushed the rebellion in Hama, in 1982. After a three-week siege, surviving rebels have been shot by Syrian Government. See J. Rodriguez, "1982: Syria's President Hafez al-Assad crushes rebellion in Hama", *The Guardian*, http://bit.ly/2kFD1NM (04.09.2017).
[6] See J. Zorthian, note 79.

repressed by the government[7]. In July 2012, the ICRC declared that armed violence in Syria had reached the threshold for non-international armed conflict[8]. As armed conflicts erupted in Syria, different nations approached Syrian armed conflicts to preserve their interests and applied various policies over time.

> [T]he Saudis and Turks wanted to replace Assad with a reliable Sunni client, while Iran and Hezbollah held fast to their one foothold in the Arab world. Russia had its own motives: flouting American designs and protecting a reliable autocrat. The US, having expected Assad to fall on his own, dithered over support for the rebels[9].

Nonetheless, the Turkish and Arab alliance yielded little fruition, while the Assad Régime proved to be resilient over time and gained control over major cities and commercial centres with the help of Russia and Iran.

There are presently hundreds of warring parties (including armed groups and militias) active in Syrian armed conflicts. Moreover, there is a constantly changing environment in terms of alliances and geography of the conflicts. However, for the purposes of international humanitarian law (IHL), to give an overall picture of Syrian armed conflicts, this paper will primarily identify the main contenders and the conflicts between them.

The main focus of this study will be the nature and classification of the Syrian armed conflicts -a problematic topic which requires analysis for its various consequences. In exploring the nature of the Syrian armed conflicts, different views found under IHL will be revisited and applied to these conflicts. Furthermore, an examination of ISIS (otherwise

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[7] See T. Rollins, "Creeping offensives, truces spread tensions in south Syrian rebel ranks"*, Al Monitor*, 2 Nov. 2016, http://bit.ly/2fbYJEE (6.8.2017).

[8] Other than courts, when they have a case before them, there is no single authority to assess or identify the existence of a NIAC. However, ICRC does identify some of the NIACs to fulfil its humanitarian mandate. See K. Lawand, "What is a non-international armed conflict?" http://bit.ly/2pj9RoT (04.09.2017).

[9] R. F. Worth, "Aleppo After the Fall", *THE NEWYORK TIMES,* 24 May 2017, http://nyti.ms/2rvYiMT (07.09.2017).

known as IS, ISIL or DAESH[10]), the role of third states, namely, Iran, Russia, Turkey and the coalition forces) and non-State actors, such as Free Syrian Army (FSA), People's Protection Units (YPG) will be considered. Moreover, the question as to whether the FSA or other non-state actors may be regarded as a of national liberation movement (NLM) will be addressed[11].

Military involvement of Turkey in northern Syria with the recent *Operation Euphrates Shield*[12] in which Turkey liberated territories from ISIS may have arguably internationalized the situation. In view of the fact that for a conflict to be considered an international armed conflict (IAC), there is no need of resistance from the territorial state. By the same token, it is apparent that Turkey (with its cross-border *Operation Euphrates Shield*) was fighting neither for the territorial governments of Iraq nor for Syria. Thus, it might be furthered that there has been an IAC between them Syria and Turkey regardless of the *ad bellum* reasons of Turkey to resort to armed force. Furthermore, it may be argued that there are parallel IACs and NIACs: an IAC between Turkey and Syria, and again an IAC between Turkey and Iraq, a NIAC between Turkey and ISIS and so on. Nevertheless, the territory that ISIS holds (or used to hold) in its hands is both owned by Syria and Iraq, according to international law. If the situation involving the *sui generis* position of ISIS was a NIAC, is what avoids an IAC simply a lack of *animus belligerendi*[13] on the part of Turkey? Questions and issues as such will be considered throughout this study.

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[10] The Acronym ISIS will be used throughout this study as it is the most commonly used name. For other possible names and explanation as to why they are chosen by others see F. Irshaid, "Isis, Isil, IS or Daesh? One group, many names", http://bbc.in/1yJhimr (24.07.2017)
[11] See Y. Dinstein, (2009) note 205 at 34.
[12] "Turkey's Euphrates Shield Operation in Syria 'successfully completed'", *Hurriyet Daily News*, 29 March 2017, https://goo.gl/g5GM8y (10.09.2017).
[13] See Y. Dinstein, *War, Agression and Self-Defence*, (Cambridge: CUP, 2009) at 14.

PART I: CLASSIFICATION OF IACS OF SYRIAN ARMED CONFLICTS

In this part of the study, identification of IACs in the Syrian armed conflicts will be traced.

According to CA2 of the Geneva Conventions of 1949, IACs are defined as conflicts between at least two states[14]. However, for the classification of IACs the picture may not always be that straight forward. There may be IACs and NIACs conflated or mixed spatially or temporally[15]. In the case of Syria, the issue remains unresolved given the decision that there is more than one state. Indeed, there is more than one state fighting for different interests in and around Syria but is this mere fact sufficient to render the conflicts international? Russia and Iran are there on the invitation of the Assad Régime while the US-led coalition claims it is there only to fight ISIS as is Turkey[16]. It is generally accepted that in a *prima facie* NIAC, where the incumbent government fights against one or several non-state armed groups, military involvement of third states upon the invitation of and in support of the incumbent government does not make a conflict international[17]. Thus, the situation of Iran and Russia should be left aside. Nevertheless, the situation of other states, such as the US-led coalition and Turkey who have conducted military operations within Syria, proves to be more problematic. To what extent can these third states claim that (despite their military presence in Syria) they are not fighting against Syrian incumbent government and thus the nature of hostilities in Syria should still be classified as a NIAC?

Another controversial point which, arguably, can turn the hostilities in Syria into IACs is the alignment of non-state armed groups who fight against the Syrian incumbent government. It is submitted that once it is proven that a non-state armed group, in its fight

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[14] A. Roberts and R. Guelf, (eds.), *Documents on the Laws of War* (Oxford: OUP, 2000) at 198. See also Y. Dinstein, (2016) note 206 at 35; Y. Dinstein, (2009) note 205 at 34.
[15] Y. Dinstein, (2016) note 206 at 35.
[16] Turkey considers YPG (a predominantly Kurdish armed group in Syria) to be closely linked with terrorist group PKK. See Turkish Ministry of Foreign Affairs, "PKK", http://www.mfa.gov.tr/pkk.en.mfa, (28.07.2017).
[17] See M. Milanovic, (2010) note 89.

against the incumbent government, is acting on behalf of a third-state, hostilities becomes IAC in nature. Only after the determination of the degree of alignment of the non-state armed group can a conclusion be drawn for internalization of the armed conflict. Thus, this discussion will be dealt with later under the section allocated to internalization of NIACs in Syria[18].

It is generally accepted that threshold for an IAC is low as represented by first-shot theory[19]. Nevertheless, there is another approach which requires a sustained level of armed conflict between states thus excluding the possibility of small-scale incidents creating an IAC[20]. This second approach has been criticized to create a legal loophole in terms of the application of IHL rules[21].

1. Syria-Turkey

Turkey's involvement in the Syrian crisis began at the very outset of the anti-government demonstrations which were, in turn, brutally responded to by the Assad Régime[22]. Upon this, the Turkish Minister of Foreign affairs wrongly evaluated that Assad had no future in Syria and had a maximum of three months until he would be ousted. A similar opinion was voiced by the then Prime Minister of Turkey R. T. Erdogan expressing his intent to attend Friday Pryer at the Great Mosque of Damascus as early as possible[23]. However, these plans have never proved in line with actual reality. Moreover, the Turkish army has never been officially

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[18] D. Turns, 'The International Humanitarian Law Classification of Armed Conflicts in Iraq Since 2003', (2010) 86 *International Law Studies* 97; M. Milanovic, (2010), note 89.

[19] Under this theory, factual circumstances will be determinative to call for the relevant rules of LOIAC whilst a minor border incursion between two states will not activate the whole body of LOIAC. See J. K. Kleffner, (2014) note 122 at 45.

[20] Use of Force Committee, Final Report on the Meaning of Armed Conflict, *in* C. Chinkin, S. Nouwen and C. Ward (eds.), International Law International Law Association: Report of the seventy-fourth conference (2010) at 677, 692–708.

[21] See D. Akande, note 43 at 32, 41.

[22] Although many States have withdrawn recognition of Assad Government, it still continues to be the legitimate government of Syria representing the country in the UN, controlling the state apparatus and running international relations with many other states. See T. D. Gill, note 113 at 355.

[23] See "Emevi Camii'nde namaz kılacağız diyen kalmadı, neo-İttihatçı sloganlar mazide kaldı", http://bit.ly/2vYPqlD (24.07.2017).

deployed for a cross-border operation against the Assad Regime and its involvement in Syria has been no more than in the form of logistical support, military training, food and medical aid to the FSA and other anti-government opposition groups.

Despite the *Operation Euphrates Shield,* which was conducted against ISIS by the Turkish army and its affiliates in the region, the Turkish army has never fought against the incumbent government of Syria. Thus, there has not been an armed conflict between the Syria and Turkey. It is clear that the territory in question has been liberated from ISIS by Turkey and it has never been occupied while at the hands of the Syrian incumbent government. Nevertheless, since *ad bellum* classifications cannot be relied upon to determine whether there is an armed conflict between these two states *vel non*, the propriety of the territory on which the *Operation Euphrates Shield* has taken place is immaterial. Furthermore, in accordance with CA2 definition, what indeed matters as for the determination of an IAC is not the territory on which the hostilities take place but the identity of the actors[24]. Therefore, for *Operation Euphrates Shield*, hostilities have taken place between Turkey and ISIS not Turkey and Syria. As a result, it can be concluded that, (leaving aside the occupation created by the *Operation Euphrates Shield* which will be discussed below) the simple fact that Turkey has sent its troops to ISIS-held Syrian territory under the *Operation Euphrates Shield* is not enough to create an IAC between Syria and Turkey[25]. An alternative to this approach is to argue that any military intervention by a foreign state turns that conflict into an international one[26]. In line with this theory of complete internalization, military intervention of Turkey against ISIS is sufficient to create

[24] D. Guilfoyle, The Mavi Marmara Incident and Blockade in Armed Conflict, (2010) 81 BYIL 171 at 16.
[25] See E. Holland, The Qualification Framework of International Humanitarian Law: Too Rigid to Accommodate Contemporary Conflicts?, (2011) Surfolk Transnational Law Review 145 at 160. The hostilities between Turkey and ISIS will be dealt with in the following part of the study.
[26] See D. Schindler, note 184 at 256.

an IAC between Syria and Turkey even though the two states do not fight against one another. To follow the argument of Milanovic, since the actions of ISIS is not attributable to Syria there can be no IAC between Syria and Turkey for the attacks of Turkey against ISIS[27].

ICRC, in its commentary, on the non-consensual intervention by a third state, took the view that once an intervening state has used force against a non-State armed group it will eventually use force, indirectly, against the infrastructure, and property of the territorial state. Similarly, local population will concomitantly be affected by this use of force[28]. As a result, for the ICRC it is preferable to accept that use of force creates an IAC between the two states in question even though the region in which the armed force has been used was not under effective control of the territorial state. Thus, this piece of commentary fits exactly the situation of the Turkish military operation against ISIS and creates, arguably, an IAC between Turkey and Syria. Nevertheless, it may be argued that Turkey has not attacked the armed forces of Syria, and that population centres. On the contrary, the area where the *Operation Euphrates Shield* has been conducted was of a rural nature with only a few small counties having been captured. Thus, an intervention which exclusively targets non-state armed organization, regardless of the consent of the territorial state, should be regarded as an NIAC[29] so long as the intervening state does not direct its attacks against the population, critical infrastructure and organs of the territorial state[30].

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[27] See M. Milanovic, (2010), note 89.
[28] See ICRC, Commentary of 2016 on Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Geneva, 12 August 1949, Article 2 at para 262, http://bit.ly/2h6d1Fb (02.09.2017).
[29] Supposing that the hostilities meets the criteria for counting as a NIAC.
[30] N. Lubell, The War (?) against Al Qaeda, in Elizabeth Wilmshurst (ed.), *International Law and the Classification of Conflicts*, (Oxford: OUP, 2012) at 439–40. For the classification of armed conflicts property and population cannot be attributed to the territorial state so long as it has no effective control over them, (if the territorial state has lost its control in favour of the non-state armed group) See T. D. Gill, note 113 at 367, 369.

However, intervention of Turkey in Syria, should also be handled on grounds of occupation as well since, there is, arguably, a military occupation of parts of northern Syrian territory by Turkey[31]. Turkey has not withdrawn its 3000 soldiers from Syrian territory[32] after the completion of Operation Euphrates Shield. Moreover, Syria has not consented an anti-ISIS coalition for using force in its territory and has gone further to call that a violation of its sovereignty[33]. In one of his speeches Turkish President Erdogan has declared that Turkey has appointed a governor to rule 2000 square km of Syrian territory[34] which is to the effect of applying law of occupation.

It is submitted that, if intervention results in occupation then LOIAC regime is activated[35]. Regardless of its being forcibly opposed *vel non,* a total or partial occupation is a clear basis upon which to decide that there is an IAC between two opposing states[36] Nonetheless, had Turkey not appointed a governor to the occupied territory it would be able to contend that it does not occupy the area but FSA and its affiliates are in effective control thereof. However, on face of the crystal-clear fact that the Operation Euphrates Shield has been conducted under the command of and in cooperation with Turkish troops, members of the FSA are equated with Turkey. In sum, military occupation of the area followed by the Operation Euphrates Shield triggers the law of occupation and thus creates an IAC between Syria and Turkey.

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[31] Geneva Academy, "Involvement in Armed Conflicts: Syria", http://bit.ly/2fhHd1u (29.08.2017).
[32] H. Firat, "No withdrawal from Syria before settlements built, local forces trained: Turkish FM" http://bit.ly/2xUnbkD (08.09.2017).
[33] See Letters of Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council, U.N. Doc. S/2015/718 (17 September 2015).
[34] "Erdoğan'dan itiraf: Suriye topraklarında vali görevlendirdik", *1HABERVAR,* 23 August 2017, http://bit.ly/2vTEwJN (10.09.2017).
[35] See Y. Dinstein, (2009), note 205 at 30 *et seq.;* E. Crawford and A. Pert, note 195 at 146.
[36] ICRC, Commentary of 2016 to the GC I, note 28, Article 2, at para 223 See also T. D. Gill, note 113 at 371.

2. Syria-US-led Anti-ISIS Coalition

It has been discussed that state consent is crucial to determine if there is a NIAC or an IAC and the most common example of such is (although Israel also attacked Lebanese targets) Israel's military intervention into Lebanon to fight Hezbollah. Here, it has been further suggested that there is an IAC unless Lebanon consents Israel to fight against Hezbollah within Lebanese territory[37]. Thus, it may be argued that if Syrian incumbent government did not consent to the US-led coalition fighting against ISIS within Syrian territory, then there should be an IAC between Syria and the US-led coalition forces. A similar conclusion can be drawn for Turkey's fight against ISIS where it leads to an IAC between Syria and Turkey.

In contrast, it may well be argued that the consent of the state in question is not important since the fight against ISIS is conducted on the basis of UN Security Council Resolutions[38]. Pursuant to article 103 of the UN Charter, when faced with conflicting obligations states are obliged to obey and privilege the UN Charter. Turkey and the US-led coalition might duly invoke this provision to deny the issue of consent of Syria.

It remains disputable whether a non-consensual intervention against a non-state actor by a third state creates an IAC between the intervening state and the territorial state. However, there may be valid legal reasons for intervening and the intervention thereof might not be counted as a violation of sovereignty of the territorial state[39]. For the intervention of the US-led Coalition to fight against ISIS, the UN Security Council Resolutions and collective or individual[40] self-defence[41] seems to be sufficient legal basis.

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[37] See for example M. Milanovic, (2013), note 201 at 295.
[38] An IAC requires at least two states fighting each other. See for example Y. Dinstein, Concluding Remarks on Non-International Armed Conflicts, (2012) 88 *Int'l L. Stud. Ser. US Naval War Col.* 399 at 405.
[39] See T. D. Gill, note 113 at 367.
[40] For the states where ISIS conducted terrorist attacks (Such as Turkey and France) states tend to rely on individual self-defence. See for example U.N. SCOR, 70th Session, 7565th meeting at 2, U.N. Doc. S/PV.7565 (Nov. 20, 2015).

Moreover, even when there is no legal basis where the intervention is regarded as a violation of sovereignty of state, it may still not be an IAC between the two states in question as a violation under *jus ad bellum* does not automatically create a violation in terms of *jus in bello* and vice versa. As a result, since no military action has taken place between the parties in question and the intervention has only targeted ISIS (i.e.: Syria-Turkey, the US-led coalition- Syria) there can be no IAC between Syria and US-led coalition, a situation which also applies between Syria and Turkey[42].

If one subscribes to the opinion that lack of consent on the part of Syria automatically creates an IAC[43] then there arises the probability of parallel or mixed armed conflicts. This may potentially create following armed conflicts: i) an IAC between Syria and the US-led coalition, ii) a NIAC between Syria and ISIS iii) an IAC between Syria and Turkey. Nevertheless, for the case of the above-mentioned armed conflicts, parallel existence of IACs and NIACs makes no difference in terms of applicable law unless the abovementioned States actively engage in hostilities against one another. As a matter of fact, the US-led coalition and Turkey did not actively take part in hostilities against Syrian incumbent government, thus there is no case for applying the rules of LOIAC between them even when the classification of armed conflict so allows[44].

Furthermore, only if intervention has resulted in occupation or territorial state and intervening state have been engaged in hostilities or have captured army members of the

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[41] There is considerable support for the view that self-defence can be invoked against non-state actors. See for example M. N. Schmitt and J Pejic (eds.), *International Law and Armed Conflict: Exploring the Fault lines*, (Leiden: Brill, 2007) at 21 *et seq,* 127 et seq, 113 *et seq.* Cf. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, 2004 I.C.J. at paras 136, 139; *Armed Activities on the Territory of the Congo*, 2005 I.C.J. at paras 146–147, 222 where ICJ has limited self-defence against the activities of states.
[42] See T. D. Gill, note 113 at 368.
[43] See D. Akande, Classification of Armed Conflicts: Relevant Legal Concepts, *in* Elizabeth Wilmshurst (ed.), *International Law and the Classification of Conflicts*, (Oxford: OUP, 2012) at 41; D. Fleck, Non-International Armed Conflicts, in D. Fleck (ed.), *The Handbook of International Humanitarian Law*, (Cambridge: CUP, 2013) at 584.
[44] This argument is true when the pairings approach is opted however it may make difference if the complete internalization theory is applied.

other party or civilians have been detained by the intervening state[45] can IAC regime be activated. Thus, it is the factual situation that determines the applicability of IAC regime but not the violation of sovereignty[46]. Finally, it is important to take note of the state practice in support of the opinion that non-consensual intervention does not automatically activate IAC regime. Turkey has never regarded itself as in an IAC with Iraq for its cross-border operations against PKK, the same is true of the US, for its drone strikes in Pakistan targeting various non-state armed groups only. Colombian interventions into Ecuador in pursuit of FARC members, Kenyan incursions into Somalia to fight against Al-Shabaab militants are other examples where intervening states did not regard themselves as in an armed conflict with the territorial state[47].

3. Syria-the US

Until April 2017, when the US launched some 59 patriot missiles against the al-Shayrat airbase of Syrian incumbent government, the US has never directed hostilities towards Syria. This one-off strike has created an IAC situation between the US and Syria which clearly satisfies IAC threshold. The US contends that it responded to a gruesome chemical attack against civilians by targeting the abovementioned airbase[48]. Regardless of the grounds and the classification of the US, this bombardment undoubtedly represents, at the very least, a short-lived IAC between Syria and the US. By making sure that no Russian and Iranian elements existed in the operation area the US has prevented a fully-fledged IAC between itself and Russia and Iran. The US, rather intended the strike to be in retaliation for the chemical attacks of Syria on civilians.

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[45] J. K. Kleffner, Human Rights and International Humanitarian Law: General Issues, *in* T. D. Gill & D. Fleck (eds.), *The Handbook of the International Law of Military Operations*, (Oxford: OUP, 2015) at 43–44.
[46] T. D. Gill, note 113 at 370-371.
[47] States are not willing to accept that they are in an armed conflict with each other for a number of reasons. Trade, diplomatic relations, international pressure are the most popular reasons to do so.
[48] J. Pace, V. Salama and L.C. Baldor, "US missiles blast Syria; Trump demands 'end the slaughter'", AP NEWS, 07 April 2017, http://bit.ly/2xYeJld (25.08.2017).

4. Russia-Turkey: The Fighter Jet Crisis

For hostilities to be classified as an IAC, CA2 definition requires them to take place at least between two states. As pointed out above, when the unrest began in Syria, Turkey wanted a quick removal of the Assad Régime. However, Turkey planned to achieve this goal by the hands of FSA and opposition armed groups. Since Turkey did not want to bear the consequences of engaging in a war with Syria it waited for the US to get involved. Nevertheless, the Obama Administration was unwilling to act upon Syrian internal violence as his term was almost finished. After the US has proved unhelpful, allegedly, Turkey has planned to engage NATO into Syria to back its goal to oust the Assad Régime[49].

On November 24, 2015 when Russian jets were on mission upon the invitation of Syrian incumbent government, Turkey shot a Russian military jet down resulting in the death of two pilots for an alleged border violation according to Turkey's declared rules of engagement[50]. Did this incident turn the situation into an IAC between Russia and Turkey? It should be noted that there is no agreement in literature on the level of violence between states threshold to qualify as an IAC[51]. Two basic approaches may be mentioned on the existence of an IAC between two states. The first of them considers any inter-state armed violence as an IAC which is known as first-shot theory, while the second view creates an exception for minor border incidents and, more importantly, requires a sustained level of violence between states[52]. The incident here is clearly far from being a minor one which

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[49] See A. Matisak, "Turkey Downs a Russian Fighter Jet – What Now for NATO?" http://defencematters.org/news/turkey-downs-a-russian-fighter-jet-what-now-for-nato/422/, (07.09.2017).
[50] "Turkey's downing of Russian warplane - what we know", *BBC,* 1 December 2015, http://www.bbc.co.uk/news/world-middle-east-34912581, (28.07.2015)
[51] International Law Association, Final Report on the Meaning of Armed Conflict in International Law, 2010.
[52] C. Gray, *International Law and the Use of Force,* Oxford: OUP, 2004, at 148, 149.

caused great unrest among relations between the two countries[53]. Therefore, it may be argued that letting down of the Russian jet has created a short-lived IAC between Turkey and Russia. Even though shortly afterwards both parties have clearly refrained from escalation and the Turkish side has declared its condolences and apologized for the incident, relations between both parties have taken months to recover[54]. Two Russian pilots died in the incident when they ejected themselves from the plane but were subsequently shot by Turkmen fighters in Syria. In such a setting, pilots should have enjoyed prisoner of war status as required by GC III[55]. However, evidence suggests that at least one of them was shot while soaring in Turkish airspace with his parachute when gun-fire opened from the Syrian Turkmen region. Turkey has detained 13 fighters over the accusation of violating Turkish airspace by shooting at the Russian pilot[56].

When the jet crisis happened, Turkey called for an extraordinary meeting of North Atlantic Council invoking article 5 of North Atlantic Treaty. Nevertheless, Turkey could not get what it expected from its NATO allies. On the contrary Germany and the US wanted to withdraw patriot missiles which were already positioned in Turkey[57]. Thus, being left alone to face a possible Russian threat which may likely the result of the downing of the Russian plane, Turkey has stepped back from its escalation strategy against Russia.

5. Syria-Israel

On September 7, 2017, SAA sources reported that, Israel had bombarded a Syrian military

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[53] To qualify as an IAC it is generally accepted that only minor level of violence between at least two states. See J. S. Pictet (ed.*), The Geneva Conventions of 12 August 1949: Commentary, III. Geneva Convention Relative to the Treatment of Prisoners of War*, (ICRC, 1960) at 23.

[54] "Tomato ban reveals lingering problems between Russia, Turkey", http://www.al-monitor.com/pulse/originals/2017/05/turkey-russia-tomato-crisis.html#ixzz4oAjzmTQE, May 15, 2017, (29.07.2017).

[55] See. R. Kolb and R. Hyde, note 209 at 209.

[56] "Alparslan Çelik, who allegedly killed pilot of downed Russian jet, arrested in western Turkey", *DAILYSABAH*, 31 March 2016, http://bit.ly/2xeoTAo (07.09.2017).

[57] R. Emmott, S. Siebold and P. Stewart, "Turkey urges NATO to keep up its Patriot defenses", *REUTERS*, 8 Oct. 2015, http://www.reuters.com/article/us-mideast-crisis-syria-nato/turkey-urges-nato-to-keep-up-its-patriot-defenses-idUSKCN0S20HJ20151008, (07.09.2017).

base killing two SAA personnel, near the town of Maysaf, where Israel argued the place had been used to develop chemical weapons by the Assad Régime besides furthering that Iran was building complex weapons factories inside Syria[58]. The fact that Israeli jets bombed Syrian targets from Lebanese airspace without intruding Syrian airspace does not make any difference in the classification of the violence between Syria and Israel. Under the first-shot theory this incident has created, at the very least a short-lived, IAC between Israel and Syria. Although Israel has launched attacks a dozen times to destroy Hezbollah militants this latest direct targeting of SAA has shown the level of involvement of Israel in Syrian armed conflicts. Nevertheless, despite all the evidence to the contrary, Israel refrains from accepting that it is at war with Syria or that it has taken sides in Syrian armed conflicts[59]. Moreover, there is also a continued occupation of Syrian Golan Heights by Israel which already had called for an LOIAC regime between the two states[60].

6. Wars of Proxy in Syria

Once the Syrian armed conflict increasingly started to attract foreign involvement, some analysts have the probability of wars of proxy in Syria[61]. However, it soon became clear that no State was ready to bear the consequences of engaging in a fully-fledged war against one another. Even the fighter jet crisis between Turkey and Russia has shown that in an environment where international relations are highly dominated by "dependence" no two states could be hostile for a long time[62] even if their interests are varied in Syria. Thus, the

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[58] B. Hubbard, "Syria Says Israel Bombed a Military Base", *THE NEWYORK TIMES,* September 7, 2017, https://www.nytimes.com/2017/09/07/world/middleeast/syria-israel-chemical-weapons-bombing.html, (07.09.2017).
[59] S. El Sirgany and A. Carey, "Israeli jets reportedly launch strikes on Syrian military facility", CNN, September 7, 2017, http://edition.cnn.com/2017/09/07/middleeast/syria-israel/index.html, (07.09.2017).
[60] Law of occupation only applies to occupied territories. See H. P. Gasser and K. Dörmann, The Protection of the Civilian Population in D. Fleck (ed.), *The Handbook of International Humanitarian Law*, (Oxford: OUP, 2013) at 269.
[61] See For example, A abuKhalil, "The 8 Proxy Wars Going On in Syria Right Now" http://www.huffingtonpost.com/asad-abukhalil/syria-proxy-wars_b_5874488.html, (28.07.2017).
[62] Kathrin Hille, "Russia lifts most sanctions imposed on Turkey after downing of jet", *Financial Times*, May 31, 2017. https://www.ft.com/content/38698b56-460c-11e7-8519-9f94ee97d996, (28.07.2017).

US-led Coalition has limited its purpose in Syria to fight only against ISIS[63]. Similarly, Turkey has not engaged Russian, Iranian or Syrian Régime forces[64].

The fact that third states who are involved in Syrian armed conflicts do not directly target each other has not ruled out the possibility of a proxy war which is defined as an

> [i]nternational conflict between two foreign powers, fought out on the soil of a third country; disguised as a conflict over an internal issue of that country; and using some of that country's manpower, resources and territory as a means for achieving preponderantly foreign goals and foreign strategies[65].

It might well be argued that the involvement of old cold war enemies Russia and the US meets the criteria set out by the definition above. In a similar vein, it is tempting to ask to what extent Turkey's support for FSA or other armed opposition groups, in this regard, can be regarded as a proxy war against other dominant powers in the region such as Russia, Iran and the US[66]? Considering the ongoing occupation by Turkey of some part of Syrian territory and Turkey's efforts to unite armed opposition groups against the Syrian government, Turkey may be said to be at a proxy war with Syria.

The US is clearly damaging the territorial integrity by its heavy military support for a predominantly Kurdish group SDF. Moreover, the US attacks on al-Shayrat air base have unveiled the real intent of the US, how hostile it is towards Syria and how further it may go in the near-future. The US support for YPG and SDF is critical evidence to imply that the US may be using Syrian Kurds in its proxy war against regional powers around Syria. Furthermore, there are some allegations to blame the US for assisting ISIS fighters to

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[63] "Syria war: US says coalition partners must only fight IS", *BBC*, 27 July 2017, http://www.bbc.co.uk/news/world-middle-east-40746045, (28.07.2017).
[64] Leaving aside the letting down of the Russian fighter jet by Turkey.
[65] K. Deutsch, External Involvement in Internal War in Harry Eckstein (ed.), *Internal War, Problems and Approaches*, (New York, Free Press of Glencoe, 1964).
[66] Being the successor of Ottoman State, Turkey might be willing to preserve its imperial interest or might harbour such aims.

escape from SAA operations or to flee from Iraq to reposition in Syria[67] which amounts to ISIS being proxy of the US in its fight against Syria.

Similarly, Iranian and Russian support for Syrian incumbent government seems to be well-suited to the concept of proxy war. Nevertheless, states tend to cover their real intent and organize their actions so as not to seem at war with other states. This is what has happened in Syrian armed conflicts as well. As a result, the identification of which state is conducting a proxy war against which other state offers little help with the decision whether there is an armed conflict between the states in question.

[67] President Assad's Russian RIA Novosti and Sputnik Interview, *SYRIATIMES,* April 21, 2017, http://syriatimes.sy/index.php/interviews/30260-president-assad-s-russian-sputnik-ria-novosti-interview-april-21-2017, (07.09.2017)

PART II: CLASSIFICATION OF NIACS IN SYRIA

ICTY defines a NIAC as protracted armed violence between governmental authorities and organized armed groups *or between such groups* within a State"[68]. According to ICTY, the existence of a NIAC is decided upon it being intense and protracted armed violence between a state and armed groups or between armed groups themselves[69]. The International Criminal Court (ICC) takes a similar approach to the definition of a NIAC. That is: "armed conflicts that take place in the territory of a State when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups.[70]" Thus, for the determination of a NIAC there appears to be two basic criteria, namely, intensity of the violence and organization of armed group(s) whereupon relevant body of IHL comes into play[71]. Nevertheless, there are some additional criteria required for the application of AP II such as controlling of a part of territory by the non-state armed group[72].

For a NIAC *simpliciter*, intensity of the conflict should be higher than that of sporadic acts of violence, terrorist attacks and of internal disturbances and a minimum degree of organization to conduct and coordinate military operations is required[73]. Territorial control by non-state armed group, government forces to constitute a party to the hostilities[74], a specific motive (often times a political motive to fight against incumbent government) on the part of non-state armed group are not required for a NIAC *simpliciter*[75].

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[68] *Tadić*, Decision on Interlocutory Appeal on Jurisdiction, note 69 at para 70.
[69] See *Prosecutor v Tadić*, ICTY, IT-94-1-AR72, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 Oct. 1995, at para 70. (*Tadić* Decision on Interlocutory Appeal on Jurisdiction).
[70] Rome Statute of the International Criminal Court, July 17, 1998, 2187 U.N.T.S. 90, reprinted in M. D. Evans, *Blackstone's International Law Documents*, (Oxford: OUP, 2015) at 463 *et seq.*
[71] R. Kolb and R. Hyde, note 209 at 258.
[72] See APII article 1(1) in A. Roberts and R. Guelf, note 14 at 484. See also S. Sivakumaran, (2014) note 147 at 182 *et seq*.
[73] See S. Sivakumaran, (2012) at 167 *et seq.*
[74] See APII, article 1, note 14.
[75] See S. Sivakumaran, (2012) at 180-183.

1. ISIS- Syria

Invasion of Iraq in 2003 and the following regime change in the country has been construed by the leader of Syria (Bashar Al-Assad) that the next invasion might be of his country. Invasion of Iraq has demonstrated that the US is unwilling to cooperate with a government which has limited representation among society. The ousted Saddam Régime was arguably representing minority *sunni* people in Iraq. Thus, these fears have led the Assad Régime to support terrorist groups including like Al Qaeda, Hezbollah and so on. Under the connivance and tangible support of Assad Régime, the Maliki Government in Iraq has been destabilized with terrorist bombings[76]. Harbouring terrorists and sending them to territory of Iraq, Al Assad has prepared the establishment of ISIS. Having first been founded in Iraq, ISIS has found an unprecedented opportunity to become a real territorial terrorist organization when the internal violence[77] broke out in Syria. ISIS continued to operate as a branch of Al Qaeda before it declared its independence[78]. After the separation, the remaining part was called as Al-Nusra Front. ISIS fights against among others, the Syrian incumbent government and other any armed opposition groups in Syria, more clearly put, whoever stands its way[79].

In cooperation with Russia and Iran, the Syrian Arab Army (SAA) has fought against ISIS to diminish its territorial gains which have been achieved by ISIS in relatively a short period of time[80]. ISIS still occupies lands both from Syrian and Iraqi territories. Does this transnational element create a change in the classification of the *prima facie* NIACs between i) between ISIS and Syria and ii) ISIS and Iraq? The answer to this question is no, as

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[76] M. Weiss and H. Hassan, note 99 at 97 *et seq.*
[77] Here the term civil war is not used as a term of art to denote recognition of belligerency but is used to distinguish the level of violence from that of internal disturbance and riot. See S. Sivakumaran, (2014) note 147 at 161.
[78] See A. B. Atwan, note 98 at 73.
[79] J. Zorthian, "Who's Fighting Who In Syria", TIME, Oct 07, 2015, http://time.com/4059856/syria-civil-war-explainer/, (04.09.2017).
[80] For the changes in the map of ISIS between April 2013 and January 2016 see T. Rogoway, This Animated Map Of ISIS Expansion In Syria, Iraq And Beyond Is Unsettling, http://foxtrotalpha.jalopnik.com/this-animated-map-of-isis-expansion-in-syria-iraq-and-1756464711, (15.08.2017) For the current map of Syria see note 191.

discussed above: what matters in terms of classification is the identity of the parties[81]. Thus, the prima facie NIAC between ISIS and Syria seems only to have the chance to transform to an IAC if ISIS is ever recognized as a state. Bearing in mind all the evidence and the UN Security Council resolutions against ISIS and other terrorist organizations in general, this option seems very unlikely. Nevertheless, there are some authors who are of the opinion that for the classification of armed conflicts, objective criteria of statehood should be relied upon. In line with this approach, Dinstein argues that there was an IAC in Afghanistan until 2014 given that the Taliban Government had majority of the country territory in its hands. Although inventing some additional criteria of statehood[82], this view is parallel with declaratory theory for the recognition of states and seems to have taken ground. Since, these additional criteria of statehood cannot be fulfilled by ISIS it can be concluded that the armed conflict between ISIS and Syria qualifies as a NIAC.

Since Syria is not a party to APII, violence between ISIS and Syria should be identified based on the CA3 criteria in other words, NIAC simpliciter thresholds and requirements should be looked at. Although a faction of the Syrian army has formed a dissident army under the name of FSA, the Syrian Army has never lost its required level of organization to form a party to a NIAC simpliciter. Moreover, the Syrian army which is estimated to have over 100,000 personnel has been supported by pro-government forces organized by Iran called National Defence Forces which reportedly has over 60,000 members[83].

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[81] See D. Guilfoyle, note 24.
[82] For this additional criterion of statehood developed by James Crawford see note 96.
[83] C. E. Humud, C. M. Blanchard and M. B. D. Nikitin, Armed Conflict in Syria: Overview and U.S. Response, Congressional Research Service, 10 August 2017, https://www. fas.org/sgp/crs/mideast/RL33487.pdf. (30.08.2017) at 12.

Syrian Arab Republic is a party to AP II, which raises the issue of applicability of AP II for the NIACs between non-state armed groups and the SAA. Given that ISIS is a territorial non-state armed group and holds sufficient territory to implement the protocol[84] and has a responsible command and thus the NIAC between Syria and ISIS satisfies the indicia set out by APII[85]. As a result, this calls for a much higher degree of fundamental guarantees availed by CA3[86]. Nonetheless, that neither Syria nor ISIS seems to be complying with these guarantees, is another issue.

2. ISIS-Turkey

ISIS mainly operates in Syria and Iraq however it has conducted attacks in Turkey Europe and Jordan[87]. Nevertheless, the mere fact that hostilities have reached cross-border does not render a conflict an international character[88]. Thus, hostilities between Turkey and ISIS cannot be classified as an IAC. Does this conclusion directly lead the hostilities to be NIAC? Specifically, if a situation is not an IAC, it is not going to be conclusively classified as a NIAC[89]. Thus, hostilities should have reached to the threshold of an armed conflict[90], which they apparently have[91], and the identity of the parties to the hostilities should be

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[84] See note 191 for current Syrian map.
[85] Literature suggests that ISIS has gone beyond an ordinary non-state armed group and created a state-like administrative and military structure. See for example A. B. Atwan, note 98 at 132 *et seq.*
[86] See I. Detter, note 204 at 201.
[87] "Why ISIS Attacks Turkey", http://www.nbcnews.com/storyline/istanbul-ataturk-airport-attack/why-isis-attacks-turkey-n601081, (25.07.2017). See also A. Tadayoni and A. Partavousi, note 101 at 138.
[88] See M. Milanovic and V. Hadzi-Vidanovic, note 201 at 301.
[89] M. Milanovic, 'What Exactly Internationalizes An Internal Armed Conflict?', 7 May 2010, http://www.ejiltalk.org/what-exactly-internationalizes-an-internal-armed-conflict/ (25.07.2017).
[90] Nevertheless, ICRC perspective does not even require the hostilities to reach to the level of an armed conflict when a third State involves in a pre-existing NIAC. Therefore, in ICRC's reading hostilities between Turkey and ISIS need not reach to any threshold so as to be regarded as a NIAC since Turkey is involving a pre-existing NIAC between Syria and ISIS. See FALL AUMF SYMPOSIUM PANEL 2: THE AUMF'S RELEVANCE TO THE CURRENT MILITARY OPERATIONS AGAINST ISIS 5 Nat'l Sec. L. Brief 105 2014-2015, at 123, 129.
[91] With Operation Euphrates Shield, deploying heavy weapons, tanks, aerial bombardment and boots on the ground Turkish Army has liberated the land from ISIS located on the north of Syria. See "Turkey's Euphrates Shield Operation in Syria 'successfully completed'" note 12. Moreover, ISIS has reportedly, carried out 14 terrorist attacks inside Turkey killing 304 people. See. A. Zaman, "Ankara-Islamic State story emerges between lines of Turkish report", http://bit.ly/2wQOdMN (06.09.2017).

considered[92]. On the one hand, Turkey is a state under international law, on the other hand ISIS is a self-claimed entity which has no international personality from all perspectives of recognition of states. For the constitutive theory, ISIS clearly has no recognition by any state. ISIS became remarkable when it captured some key cities from Iraq and Syria in 2014. Having a "defined territory" and "population" are two of the objective criteria of statehood[93] which ISIS clearly meets. Similarly, ISIS exports large amount of petrol to neighbouring states which is another criterion indicating viability and the ability to enter into international relations with other states. Disputably, despite having met the objective criteria for statehood, including having a government, ISIS is regarded as a terrorist organisation by the UN and by many states[94]. Since ISIS has been given no recognition hitherto, it is unlikely to be regarded as a state under declaratory theory[95]. Furthermore, there is a growing trend in international law to add another criterion to statehood which is first voiced by James Crawford[96], namely, the entity claiming statehood should not have been created in violation of international law[97] and should be willing to comply with international law. It is a fact that ISIS has been created in violation of international law. It is neither a national liberation movement nor a population fighting against alien occupation or using their right to self-determination. ISIS has propagated via the internet to find foreign fighters and declared a caliphate[98]. Rather, ISIS is claiming to have established an Islamic State which relies on the early practices of *sunnah*[99]. Unsurprisingly, it has been outlawed by the UN, EU, US, UK

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[92] D. Guilfoyle, note 24 at 16.
[93] *See M. Craven, Statehood, Self Determination and Recognition in* M. D. Evans, *International Law*, Oxford: OUP, 2010 at 220. See also I. Detter, note 204 at 192.
[94] "Statewatch comparative analysis of the US, UK, UN and EU "terrorist lists"", http://www.statewatch.org/terrorlists/listsbground.html, (25.07.2017)
[95] For more information on the constitutive and declaratory recognition, and recognition of governments see M. Craven, note 93at 203 *et seq.*
[96] J. Crawford, *The Creation of States in International Law,* (Oxford: OUP, 2006) at 37 *et seq.*
[97] That principle emanates from the latin maxim "*ex injuria jus non oritur*" (also being a general principle of law).
[98] A. B. Atwan, *Islamic State: The Digital Caliphate,* (London: Saqi Books, 2015) at 108.
[99] See M. Weiss and H. Hassan, *ISIS: Inside the Army of Terror*, New York: Regan Arts, 2015 at 216.

and many other individual states[100]. Moreover, ISIS disregards the rules of humanitarian law and makes this clear by committing genocidal acts against the local people whom they declare infidels[101]; similarly, ISIS militants conduct indiscriminate attacks on civilians, destruction of cultural property[102], using human shields, suicide bombers, killing hostages or even burning them alive[103]. Therefore, it seems that ISIS has little chance of qualifying as a "state" under current international law. Specifically, ISIS can be categorized as territorial terrorist group[104], simply put, a terrorist group which holds a territory in its hands, however more generally it must still be regarded as a non-state actor in Syrian armed conflicts.

Turkey is not a party to APII therefore the indicia required by CA3 should be looked at to determine the existence of a NIAC and the applicable legal framework. For CA3 threshold, the intensity of the violence between the parties and organization on the side of ISIS should be questioned. In its fight against ISIS in operation Euphrates Shield, Turkey has launched air-strikes against ISIS positions also deploying ground forces of over 3000. More than 3000 ISIS militants have been killed in comparison with 67 Turkish soldiers and over 600 FSA fighter fatalities on the other side. Turkey and the FSA have gained the control from ISIS of three counties named Azez, Jarablus and Al-Bab amounting to 2,000 square km[105]. Moreover, there is no question of the organizational structure of ISIS where the discipline and command structure is relatively high compared to other non-state armed groups fighting within Syria. Therefore, it follows that there has been a NIAC simpliciter

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[100] Turkey says it is the first State to outlaw ISIS on 10 Oct. 2013, "Davutoğlu: IŞİD'i Resmi Olarak İlk Biz Terör Örgütü İlan Ettik", https://goo.gl/FdK2h9 (25.17.2017).
[101] A. Tadayoni and A. Partavousi, The Coalition for Counter-Terrorism Airstrikes and the Indifference of Some Countries: A Critical Study, 9 *J. Pol. & L.* 136 2016 at 137.
[102] P. Gerstenblith, The Destruction of Cultural Heritage: A Crime against Property or a Crime Against People?, (2015-2016) 15 *J. Marshall Rev. Intell. Prop. L.* 336, at 359, 372 *et seq*.
[103] "Sick ISIS savages film themselves burning two Turkish soldiers alive in disturbing new execution video after capturing them in Aleppo", https://goo.gl/7SPqEb (25.07.2017).
[104] See G. Avriel, Terrorism 2.0: The Rise of the Civilitary Battlefield, 7 *Harv. Nat'l Sec. J.* 199 2015-2016 at 207.
[105] See note 111.

between Turkey and ISIS which is subject to CA3 régime. CA3 is binding on Turkey via treaty law, since it is a party to Geneva Conventions while it binds ISIS by way of custom.

It is important to note that the nature of the link between the FSA and Turkey in the *Operation Euphrates Shield* is clearly one of complete dependence and control which is significantly stricter than the overall control or effective control. Therefore, the fact that FSA has acted under the complete command and control of Turkish armed forces in the Operation Euphrates Shield, prevents the probability of a parallel NIAC between FSA and ISIS.

3. YPG-Turkey

YPG[106] has been fighting against ISIS not against Syrian incumbent government. Having been trained and equipped by the US, YPG has a different agenda in which they plan to gain territory in their fight against ISIS to create Western Kurdistan or, what they call *Rojova*[107]. By the same token, YPG (and SDF) is excluded from the term anti-government armed opposition groups[108] and should be regarded as another main contender for the purpose of classification of armed conflicts in this paper.

Turkey did not intervene in the Syrian armed conflict by way of sending its troops until there appeared new red lines for Turkish border security. The US support for YPG[109] has led to the creation of a new Kurdish region right next to Turkish southern border of Syria. Whereas the US contended that the Kurds are the most effective partner to defeat ISIS it soon turned out that YPG would connect the two Kurdish-held cantons by gaining control of

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[106] US-sponsored and PKK affiliated Kurdish armed militia comprised of 25,000 fighters. See "Syrian Democratic Forces", https://www.globalsecurity.org/military/world/para/sdf.htm, (08.09.2017). YPG is a part of SDF which is the main US-sponsored umbrella armed organization located in northern Syria.

[107] See "YPG: People's Protection Units", http://thekurdishproject.org/history-and-culture/kurdish-nationalism/peoples-protection-units-ypg/, (31.07.2017).

[108] Anti-government armed opposition groups, including FSA, have somewhat a shared goal of opposing the Syrian incumbent government and actively fighting against it.

[109] YPG, with the support of the US, has formed Syrian Democratic Forces (SDF) by way of merging a small number of non-Kurdish armed groups in the region in 2015. See C. E. Humud *et al,* note 83 at 11.

the corridor in between the two called Al-Bab. As Turkey is of the opinion that YPG is closely linked with PKK[110] which it regards as a terrorist organization, Turkey intervened against ISIS to prevent the connection of two YPG-held enclaves. Rendering 67 Turkish soldiers and over 600 FSA fighters on one side and over 3,000 ISIS fighters dead on the other side, the operation was named after the River Euphrates (Euphrates Shield) whereby Turkey insisted on the withdrawal of YPG to the East of the river. Liberating 2,000 square km of Syrian territory from ISIS[111], Turkey also bombed YPG elements and negotiated with the US for the above-mentioned withdrawal of YPG, implying that unless YPG withdraws to the east of River Euphrates it would target and engage YPG fighters again. However, YPG has not withdrawn from the west of the Euphrates River[112]. Turkey has launched air strikes which met the intensity requirement of a NIA*C simpliciter* considering the number of attacks undertaken[113]. Moreover, having been trained and equipped by the US, YPG clearly satisfies the level of organization required by NIAC-*simpliciter*. It follows that there has been a NIAC between Turkey and YPG. Furthermore, Turkey did not declare any plans to end its military presence in Syria[114] and might target YPG positions in the near future when it deems necessary.

4. Anti-government Armed Opposition-Syria

Anti-government armed opposition groups in Syria, commonly referred to by the media as rebel groups[115], are comprised of many factions. The most commonly known of them is the Free Syrian Army which is one of the largest armed opposition groups actively fighting

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[110] See note 16. See also A. Stein and M. Foley, "The YPG-PKK Connection," Atlantic Council, January 26, 2016, http://www.atlanticcouncil.org/blogs/menasource/the-ypg-pkk-connection, (30.08.2017).
[111] "Turkey ends 'Euphrates Shield' operation in Syria", ALJAZEERA, 30 March 2017, http://www.aljazeera.com/news/2017/03/turkey-ends-euphrates-shield-operation-syria-170329211428970.html, (29.08.2017).
[112] P. Cockburn, "Syrian civil war: Could Turkey be gambling on an invasion?" *INDEPENDENT*, 30 Jan. 2016, http://ind.pn/1Kiceyj (29.08.2017).
[113] See T. D. Gill, Classifying the Conflict in Syria (2016) 92 *INT'L L. STUD.* 353 at 376.
[114] See note 111.
[115] "Syria's rebels unite to break Assad's siege of Aleppo", The Guardian, https://www.theguardian.com/world/2016/aug/06/syria-rebels-unite-break-aleppo-siege, (04.09.2017).

against Syrian incumbent government[116] The FSA has been established by Syrian Army members who resigned thereof and declared the establishment of this dissident army. FSA declared to be the umbrella armed opposition group for all Syrian armed opposition yet this has not been accepted by some of the armed groups thereof. Nonetheless, Syrian rebel groups have been united several times during the course of Syrian armed conflicts[117]. Thus, they should be regarded as a main contender in Syrian armed conflicts.

Some of the anti-government opposition groups aim for a secular state while others, such as Ahrar al-Sham fight for a sharia-ruled theocratic régime. Unsurprisingly, they have fought with each other several times. Moreover, anti-government armed opposition groups used to include or coexisted with, at least for a period of time, some of the extremist Al Qaeda-linked movements like Al-Nusra Front which later took the name of Hayat Tahrir al-Sham (HTS)[118]. Nevertheless, it did not take HTS to fight against Ahrar al-Sham and other armed groups and drive them out of the territory once held, such as Idlib[119].

Syrian armed opposition groups used to be supported primarily by the US, Turkey, Saudi Arabia and Qatar[120] however the US managed to create another main contender called SDF which serves the US interests better in Syria. As a result, the US support has been relocated for the benefit of SDF and more specifically YPG.

The most fierce and brutal confrontation between the Assad Régime forces and Syrian armed opposition groups took place in the Battle of Aleppo where 31,000 civilians

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[116] See Suleiman Al-Khalidi, *REUTERS*, 4 June 2017, http://www.reuters.com/article/us-mideast-crisis-syria-deraa-idUSKBN19305V, (6.08.2017).
[117] B. Mroue and S. El Deeb, The 41 opposition factions say 'new reality' requires widespread cooperation against 'Russian-Iranian alliance', 5 Oct. 2015, https://www.timesofisrael.com/syrian-rebel-groups-unite-to-fight-russian-occupiers/, (04.09.2017).
[118] G. Sary, "Syria conflict: Who are the groups fighting Assad?" BBC, 11 November 2015, http://www.bbc.co.uk/news/world-middle-east-34710635, (09.09.2017)
[119] Not responding the negotiation efforts of Turkey and the US to unite the anti-government opposition groups in Syria, HTS might risk triggering a further NIAC between Turkey and itself. See "Does Turkey face day of reckoning with al-Qaeda in Idlib?", 30 July 2017, http://bit.ly/2xUujxk (06.09.2017).
[120] See J. Zorthian, note 79.

died in the NIAC[121]. Although, there have been times where less intense conflicts have been fought between SAA and anti-government armed opposition groups it should be accepted that after the NIAC threshold has been transgressed the level of intensity and organization of anti-government armed opposition has been sufficient enough at least to the degree of a NIAC *simpliciter*[122].

5. Anti-government Armed Opposition-ISIS

After ISIS began to operate in Syria it first cooperated with Anti-government armed opposition groups to fight against Syrian incumbent government. However, it did not take ISIS long to declare opposition groups as infidels and start to kill their commanders. Shortly thereafter, ISIS began to take over lands which were in control of the FSA. Thus, this has created a NIAC between two armed groups both of which have also been fighting against Syrian incumbent government. Since, both armed groups have sufficient level of organization and a chain of command and the hostilities are sufficiently intense, it follows that there has been a NIAC between ISIS and Anti-government Armed Opposition. In such a *prima facie* NIAC *simpliciter,* the intensity and organisation requirements should be determined according to CA3 which is binding on the non-state actors by way of custom.

6. Israel-Syrian Hezbollah

In 2006, Israel attacked Lebanese Hezbollah, further targeting some government buildings thus creating a situation of parallel IACs and NIAC. Since the start of the Syrian armed conflicts in 2011, Israel has launched more than a dozen of attacks on Hezbollah militants who carry weapons and fighters over the territory of Lebanon to Syria in support of Syrian

[121] L. Bassam, A. McDowall and S. Nebehay, "Battle of Aleppo ends after years of bloodshed with rebel withdrawal", *REUTERS*, 13 Dec. 2016, http://reut.rs/2xVb7j7 (09.09.2017)
[122] J. K. Kleffner, Scope of Application of International Humanitarian Law, *in* D. Fleck (ed.), *The Handbook of the International Humanitarian Law* (Oxford: OUP, 2014) at 60–61.

incumbent government.[123] If it is established that, military activities of these Hezbollah militants in Syria, who are pro-Syrian government, are attributable to Syrian incumbent Government, then, Israel may be said to have created an IAC between itself and Syria according to the low IAC threshold[124] by attacking operatives of Syrian Hezbollah. Nevertheless, the intensity of the violence created by Israel attacks, which generally targets the convoys carrying arms and militants of Hezbollah and sometimes operatives on the ground suggests that the threshold for NIAC has not been reached between Syrian Hezbollah and Israel. Considering the death-toll on the part of Hezbollah operatives in Syria and the number of attacks carried out by Israel, this creates sufficient ground to call for NIAC rules between Israel and Syrian Hezbollah[125].

[123] R. Bergman, "Hezbollah 3.0: How Israel's No. 1 enemy is preparing for the next Lebanon war", YTNEWS, 26.07.15, https://www.ynetnews.com/articles/0,7340,L-4683471,00.html, (05.09.2017).
[124] "Israeli strikes raise stakes in face-off with Hezbollah", *YNETNEWS*, 2 May 2017, http://bit.ly/2qVCKls (05.09.2017). See also, R. Kais and Y. Zitun, note 125.
[125] R. Kais and Y. Zitun, "Report: Israel strikes pro-Assad militia base", *YNETNEWS,* 23.04.2017, https://www.ynetnews.com/articles/0,7340,L-4952404,00.html, (05.09.2017)

Part III: INTERNATIONALIZATION OF ARMED CONFLICTS IN SYRIA

A prima facie NIAC may in some cases prove to be an IAC or at least may be governed by LOIAC[126]. There are only a handful of ways whereby rules of LOIAC become applicable to *a prima facie* NIAC[127], the first of them being the recognition of belligerency[128], which has definitely been consistently ruled out by Syrian incumbent government declaring various armed groups as terrorists[129]. Similarly, hitherto, no foreign power has, in legal terms, recognized belligerent status of any armed groups within Syria[130].

As second scenario where the LOIAC comes into play is that of wars of national liberation[131] which emanate from treaty law (i.e.: AP I, article 1(4)[132]) to which Syria is a party[133]. This brings into question the various armed groups being regarded as national liberation movements (NLM). Pursuant to AP I, article 1(4) a NLM should either fight against colonial domination, alien occupation or a racist regime. Since the Assad Régime is clearly not a colonial dominator[134] no armed groups in Syria should be able to rely upon AP I 1(4) on the grounds of alien occupation[135] or colonial domination. Thus, this leaves only the

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[126] S. Sivakumaran, (2014) note 147 at 234, 213.
[127] See. Y. Dinstein, (2012) note 38 at 408.
[128] Y. Dinstein, Non-International Armed Conflicts in International Law, (Cambridge: CUP, 2014) at 108.
[129] R. Kais, "Assad claims terrorists fighting his regime fight for Israel", *YNET NEWS*, 6 April 2017, http://www.ynetnews.com/articles/0,7340,L-4946010,00.html, (04.08.2017). See also M. Weiss and H. Hasan, note 99 at 97. Calling non-state armed groups as terrorists and not granting them prisoner of war status or combatant immunity will make the conflict even more brutal because of the lack of incentive on the part of the members of non-state armed groups. See S. Sivakumaran, *Re-envisaging the International Law of Internal Armed Conflict,* (2011), 22 *EJIL* 1 at 245.
[130] For the concept of belligerency see Y. M. Lootsteen, The concept of Belligerency in International Law, (2000) 166 *Military Law Review* 109 at 125.
[131] See Y. Dinstein, (2016) note 206 at 37.
[132] However, customary law status of AP I, Article 1(4) remains highly controversial. See G. Abi-Saab, Wars of National Liberation Movements in the Geneva Conventions and Protocols, (1979-IV), 165 *RCADI* 353 at 372.
[133] Syrian Arab Republic, Date of Accession 14.11.1983, https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/States.xsp?xp_viewStates=XPages_NORMStatesParties&xp_treatySelected=470, (04.08.2017)
[134] Syria gained its independence from its colonial dominator France.
[135] Although alien occupation might point out or denote belligerent occupation at first sight, it refers to "colonies of settlement". See G. Abi-Saab, Wars of National Liberation Movements and the Development of Humanitarian Law in R. J Akkerman *et al.* (eds), Declarations on Principles, (A W Sijthoff, 1977) at 163.

possibility of the claim of having to fight against a racist regime. Specifically, it is submitted that these coinages are "dated" thus they refer to specific situations at the time of their formulation[136]. Nevertheless, it can be argued that Syrian incumbent government may be regarded as an alien occupier given the fact that it had delivered an unjust invitation to intervene or a call for help to save its government against the will of their people[137]. Nonetheless, Syrian incumbent government would not accept that it is a racist government which is hard to determine in the absence of a neutral decision maker on the characterisation of armed conflicts. Thus, even when, with a broad interpretation, it is accepted that the provision of AP I article 1(4) encompasses self-determination, the chances of applicability of LOIAC for such cases will likely to be limited[138].

Looking at the composition of various armed groups in Syria, including ISIS, none of them represents a single ethnic group which was oppressed by Syria, with the exception of the Kurds of Syria. Oppressed and without being granted citizenship for almost half a century, Syrian Kurds have finally been given citizenship in 2011 by Syria[139]. However, Kurds of Syria are now organized under the name of YPG and supported by the US to fight against ISIS not against the Syrian incumbent Government[140]. Thus, it does not fit the pattern for the exercise of right to self-determination. Nonetheless, an unfulfilled dream of the creation of a Kurdish State dates back to the Sykes–Picot Agreement of 1916 which revisits our time again. The US-led coalition has bombed SAA forces several times, which

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[136] See S. Sivakumaran, (2014) note 147 at 218.
[137] H. P. Gasser, "Wars of National Liberation in International humanitarian law", https://doi.org/10.1017/S0020860400072491, at 165.
[138] See S. Sivakumaran, note 147 at 220.
139 "Stateless Kurds in Syria granted citizenship", CNN, April 8, 2011, http://edition.cnn.com/2011/WORLD/meast/04/07/syria.kurdish.citizenship/index.html, (04.08.2017)
[140] B. Barfi, "Kurds Now Our Best Ally Against ISIS in Syria", 9 Oct. 2015 http://www.washingtoninstitute.org/policy-analysis/view/kurds-now-our-best-ally-against-isis-in-syria, (08.08.2017)

they claim as accidental[141], and have granted ISIS free-pass to leave Iraq and relocate in Syria to fight against SAA. All this evidence suggests that the US is promoting the creation and enlargement of another Kurdish Region within Syria where it will fight against ISIS and expand further the control of Kurdish region. When combined with the upcoming referendum of Iraqi Kurdistan[142] which included, in ballots, the fate of other Kurdish regions not under control of Iraqi Kurdistan, the issue of Kurdish self-determination seems to be invoked in the near future to create a Kurdish State. It follows that, even though YPG does not fight as a NLM or invoke self-determination, the factual condition to do so in the near future is being prepared while Syrian armed conflicts continue.

Another potential NLM candidate may be the FSA. Being composed of mainly *sunni* Arab and Turkmen fighters who have been living in Syria, the FSA may be said to qualify as a national liberation movement. Since members of the FSA were oppressed by the minority government not representing them for so many years and they are actively fighting against incumbent Syrian government. This peculiarity of the FSA may call for the application of LOIAC by way of AP I, 1(4) for hostilities between them. However, the FSA and other opposition are far from being a unified group to be regarded as a NLM. Whilst they sometimes fight with each other, each one has different agendas and ideology even though their common enemy is Assad Régime[143]. Furthermore, the Assad Régime seems to treat FSA members as ordinary criminals or terrorists and secretly executes them[144]. This is

141 A. Barnard and M. Mazetti, "U.S. Admits Airstrike in Syria, Meant to Hit ISIS, Killed Syrian Troops", 17 September 2016, THE NEW YORK TIMES, https://www.nytimes.com/2016/09/18/world/middleeast/us-airstrike-syrian-troops-isis-russia.html, (09.09.2017).

142 M. Sampathkumar, "Iraqi Kurds to defy US in pressing ahead with independence referendum", INDEPENDENT, 14 August 2017, http://www.independent.co.uk/news/world/middle-east/iraq-kurdish-independence-syria-us-delay-tillerson-a7893486.html, (09.09.2017).

143 See T. D. Gill, note 113 at 357.

144 "Syrian regime secretly hanged 13,000 opponents, says Amnesty", *TRT WORLD*, February 2017, http://www.trtworld.com/mea/syrian-regime-secretly-hanged-13000-opponents-says-amnesty-292274, (15.08.2017).

tangible evidence that let alone considering FSA members as combatants, the Assad Régime denies them their fundamental guarantees as enshrined in CA3 and AP II to which Syria is a party[145]. However, it does not matter how the Assad Régime treats members of the FSA since it has no bearings with regard to the FSA being a NLM[146].

It is important to note that the majority of scholarly literature suggests that a national liberation movement should submit a declaration under AP I 96(3) to satisfy the criteria of AP I 1(4). [147]. Given the fact that these declarations remain hidden it is difficult to ascertain if any armed group has made a declaration or if so, whether their declaration has been rejected.

A *prima facie* NIAC might internationalize through intervention of a state in two basic forms. First scenario appears by means of deployment of its own troops[148]. Recent examples of this type of intervention include NATO forces intervening in support of the Government of Afghanistan after 2001, again in 2011 in support of Transitional National Council against Gaddafi Government forces. There are two basic approaches namely, i) the pairings approach which brings up the possibility of parallel conflicts, and ii) complete internalization approach on intervention through troops which will be discussed below under the relevant topics. Second scenario to internationalize a *prima facie* NIAC is dependent on the degree or form of state control over the non-state actor[149] which will be covered below.

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[145] Unfortunately, recent practice has shown that even the fundamental rules of IHL have been disregarded by parties to armed conflicts. See F. J. Hampson, The Enforcement of the International Law of Armed Conflicts (1993-1994) 4 *King's College Law Journal* 1 at 10.

[146] NLMs need to represent a population although they do not need to control a territory or be recognized by a regional intergovernmental organization. Y. Sandos *et al* (eds), Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949, (ICRC, 1987) at 53, 1809.

[147] S. Sivakumaran, *The Law of Non-International Armed Conflict,* (Oxford: OUP, 2014) at 220.

[148] See E. Crawford and A. Pert, note 195 at 73.

[149] Another scenario is said to be possible through the expansion of definition of international armed conflict by way of presenting sufficient state practice and proving the existence of *opinion juris* and thereby having to prove that definition of international armed conflict has changed by way of international custom. See M. Milanovic, (2010) note 89. This scenario seems very unlikely under the current international practice thus will not be dealt with here.

1. Approaches to Determine State Control over Non-State Armed Groups

It is disputable as to the degree of control or what kind of relationship is required for an indirect intervention to amount to an IAC between two states[150]. To explore and determine the nature of the relationship between a third state and non-state armed group several approaches have been invented which may be mentioned as "*Nicaragua*, *Tadić* and more". ICJ, in *Nicaragua* has developed two approaches which rely on "attribution" of alleged violations committed by *contras* to the US in terms of state responsibility[151]. The first test that ICJ has set out is complete dependence and control test which refers to dependence on the side of non-state armed group and control on the side of state which equates both parties in terms of legal responsibility and brings up the consequence of non-state armed group being considered as an organ of the state in question or acting on behalf of that state[152]. The second test which ICJ has formulated is the effective control test which tests whether the state in question has effective control over the military operations of a non-state armed group[153].

Rejecting the stance of the ICJ, the ICTY Appeals Chamber, in *Tadić ,* formulated a third test named "overall control" whereby the acts of the Bosnian Serbs had to be attributable to Serbia in order for the conflict to become internationalized[154]. For overall control of a state to be established compelling evidence is required as it is submitted that this test requires a higher threshold[155]. Therein, a state is required not only to equip and

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[150] I. Detter, note 204 at 46-48; E. Crawford and A. Pert, note 195.
[151] Nicaragua contended that the US was responsible for violations of IHL perpetrated by contras as their activities amounted to acts of the US as a result of the link between them. *Nicaragua*, note 167 at para 114.
[152] *Nicaragua*, note 167 at para 109.
[153] *Nicaragua*, note 167 at para 115.
[154] See N. D. White, *Law of International Organisations*, (Manchester: Manchester University Press, 2017) at 242 *et seq.*
[155] L. Arimatsu and M. Choudhury, The Legal Classification of the Armed Conflicts in Syria, Yemen and Libya, (Chatham House: 2014) at 5.

finance a non-state armed group but also to provide assistance in coordination and planning of military activities of the group[156].

Approaches of both the ICJ and the ICTY have been criticized for making use of attribution (that is to say, secondary rules on state responsibility) to determine the scope of application of the primary rules of humanitarian law[157]. The degree of control may take various forms thus it is submitted that the real question is not which test best fits to the specificities of the armed conflict in question but the nature of the relationship or, more specifically, whether the state and the armed group are nothing more than close allies or there is an agency-principal relationship which has been established between them[158].

This determination as to whether the armed non-state actor can be considered as acting on behalf of a third state or not, this third scenario will be dealt with under the topic of control tests for internalization where the link between third states like Turkey and the armed groups they are supporting will be discussed.

2. Involvement of Turkey in Support of Anti-government Armed Opposition Groups

Involvement of some states into the NIACs in other states may take various forms (such as financial, logistical support, provision of intelligence, communication, arms and equipment, assistance in planning and organization of military operations[159]) however not all of them produce sufficient grounds for concluding that a prima facie NIAC has been internationalized[160].

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[156] *Prosecutor v Tadić ,* IT-94-1-A, Appeal Judgment, 15 July 1999 (*Tadić* Appeal Judgment) at para 131.
[157] Although the tests were developed to decide on the point of attribution in terms of state responsibility for internationally wrongful acts of states they were found relevant to determine the internalization of the conflicts in question. See M. Spinedi, On the Non-Attribution of the Bosnian Serbs' Conduct to Serbia, (2007) 5 *JICJ* 829.
[158] See S. Sivakumaran, (2014) note 147 at 227.
[159] See *Nicaragua,* note 167 at para 106.
[160] S. Sivakumaran, (2014) note 147 at 222.

It seems well established within the literature that a third state's intervention on behalf of insurgents turns a conflict into an IAC between two states[161]. Intervention as such, can either be explicit or covert. A classic example of explicit intervention is intervention of third states to the conflict of the former Yugoslavia. In contrast, commencing in 2014, Russian intervention in Eastern Ukraine is regarded as a covert intervention on behalf of rebel groups in Ukraine[162]. Nevertheless, the afore-mentioned approach may not apply to Turkey's involvement in support of the FSA. Given that support for the FSA has not extended beyond logistical support and military training, it might not be regarded as intervention on behalf of an insurgent group and thus, it cannot be said to have created an IAC between Syria and Turkey. As a result, Turkey's involvement in support of FSA does not affect the classification of armed conflicts between the said actors, namely, Turkey, Syria and the FSA.

There is little information about the link and nature of support of Turkey to the FSA, however, acting to enforce a search warrant, on 19 January 2014, a number of gendarmeries stopped four trucks in a southern border-province of Turkey called Hatay. In 2015, when two journalists revealed the footage of the search and published newspaper articles based about the search, they were accused of revealing state secrets. The footage disclosed that four trucks, accompanied by Turkish National Intelligence Agency were stopped and the National Intelligence Agency personnel resisted the search. Allegedly, the trucks were carrying rocket parts, ammunition and semi-finished mortar shells[163]. Erdogan's spokesman Ibrahim Kalin declared that Turkey had never sent weapons to any group in Syria, though top state officials like R. T. Erdogan and A. Davutoglu are known to have made conflicting statements about the footage. Erdogan denied sending any ammunition

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[161] See T. Meron, Classification of Armed Conflict in the Former Yugoslavia: Nicaragua's Fallout, (1998) 92 *AJIL* 2, at
[162] See V. Bilkova, note 177, at 292.
[163] "Exclusive: Turkish intelligence helped ship arms to Syrian Islamist rebel areas", *REUTERS*, 21 May 2015, http://reut.rs/1mt9pzG (26.08.2017).

later claiming that it was humanitarian aid for Syrian Turkmens. Similarly, Davutoglu in his first statement on 29 May 2015 conceded that the trucks were sent in support of the FSA and Syrian People while the next day insisted that they were for Syrian Turkmens[164]. Although evidence suggests that there was provision of arms by Turkey to the FSA this does not constitute sufficient grounds for concluding that acts perpetrated by the FSA should be regarded as those of Turkey's or that there is a proxy relationship between the two, that is to say, the FSA is an agent of Turkey in its fight against Syrian incumbent government.

Turkey's role in the negotiation of a ceasefire in the Battle of Aleppo might arguably indicate that Turkey's support for the armed opposition groups in Syria had reached the necessary level of control over such groups or had created a proxy relationship whereby Turkey negotiated in the name of sieged armed opposition groups while Russia negotiated in the name of the Syrian incumbent government. However, one can contend that the negotiations were for the evacuation of civilians and thus served only humanitarian purposes and Turkey was not representing the interests of armed opposition but representing solely those of civilians. Furthermore, without aerial support from Turkey and lack of provision of Turkish ground forces, achievements of the FSA and other armed opposition groups against Syrian incumbent government have remained limited since the beginning of Syrian armed conflicts. Had Turkey launched large air strike campaigns against Syrian incumbent government in support of armed opposition groups or on its own behalf, opposition territorial gain would be much larger than today and Syrian armed conflicts would not have lasted this long. Nevertheless, in this context, Turkey would clearly be in an international armed conflict. To avoid all economical and legal ramifications attached to an IAC, Turkey's involvement in support of armed groups in Syria remains covert. Consequently, there is little

[164] See "MİT tırları soruşturması: Neler olmuştu?" *BBC TURKCE*, 27 Nov. 2015, http://bbc.in/1Nguqrf (26.08.2017).

information to conclude that Turkey's involvement in support of armed opposition groups in Syria satisfies the necessary level of control to internationalize the NIACs between Syria and the armed opposition groups which Turkey supports. Overall, the mere existence of logistical support for FSA is not sufficient for the internalization of NIAC between Syria and the FSA. In other words, Turkey's logistical support for the FSA does not create an IAC between Syria and Turkey.

3. Involvement of Turkey against ISIS

The operation Euphrates Shield of Turkey which started on 24 August 2016[165] may arguably internationalize the *prima facie* armed conflict between ISIS and Turkey and further, may i) make the whole conflict an IAC between Syria and Turkey[166] or ii) create a parallel armed conflict situation whereby an IAC between Syria and Turkey, and a parallel NIAC between ISIS and Turkey exist. Although some do not regard the parallel or mixed armed conflicts practically applicable, the case law supports this approach[167]. Parallel or mixed armed conflict is generally invoked when the internalization scenario fails[168]. Nevertheless, the nuance lies again under the fact that in Turkey's military intervention against Syria, there are no two states fighting each other under CA2 definition[169]. Thus, this makes the conflict remain as a NIAC since it satisfies other criteria. For the issue of consent of Syria, lack of which might arguably turn the conflict into an IAC, it is important to note that Turkey has militarily intervened into the region where the Syrian incumbent government had no effective control unlike the 2006 conflict between Israel-Hezbollah in Lebanon. More

[165] See note 12.
[166] ICRC, "Protection of Victims of Non-International Armed Conflicts", Documents Presented at the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, Volume V, Geneva, 24 May- 12 June 1971 at 17. See also See D. Schindler, note 184.
[167] See for example Military and Paramilitary activities in and Against Nicaragua (*Nicaragua*) Judgment on the Merits, 27 June 1986, ICJ Reports 14 at para 219.
[168] M. Milanovic and V. H. Vidanovic, note 201 at 303.
[169] M. Milanovic, (2010) note 89.

specifically, Turkey has liberated those lands from ISIS. Thus, the conflict is an armed conflict between Turkey and ISIS. More to the point, with regard to consent of the Syrian government, it might also be added that just after the fighter jet crisis between Turkey and Russia, the two states made an agreement to share their military coordinates and areas of military operations in their separate but simultaneous fight against ISIS. Thus, neither party, Russia (and thus indirectly Syria) on the one hand and Turkey at the other hand, would attack or accidentally bomb the other[170]. This might be an indication of implied consent of Syrian government to Turkish military presence in the ISIS held region.

It is important to note that the approach to limit the number of inter-state armed conflicts seem to be in line with actual state practice[171]. In accordance with this approach, the mere fact that a state did conduct a cross-border military operation against a non-state armed group without the consent of the territorial state does not internalize the conflict. A good example of this is the cross-border operations of Turkey against PKK[172] within the territory of Iraq in 1995[173].

4. Involvement of US-led Coalition in Support of SDF

It is suggested that a military intervention by a third state on behalf of the insurgents or armed opposition groups internationalizes the whole conflict[174]. Nevertheless, if this complete internalization approach is applied to the US-led coalition's involvement in support of armed opposition groups to fight against ISIS, but not to Syrian incumbent government,

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[170] See "Syria war: Russian 'friendly fire' kills Turkish soldiers" BBC, 9 February 2017, http://www.bbc.co.uk/news/world-middle-east-38919426, (18.08.2017).

[171] As of 2017, not activating jurisdiction of ICC over the crime of aggression and the UN Security Council's inaction to determine the acts of aggression seems to be a clear indication that states are unwilling to classify inter-state armed violence for a number of reasons. Thus, actual state practice supports the approach that limits the number of IACs.

[172] See "Who are Kurdistan Workers' Party (PKK) rebels?", BBC, 4 November 2016, http://www.bbc.co.uk/news/world-europe-20971100, (17.08.2017).

[173] See P. Wallensteen and M. Sollenberg, The End of International War? Armed Conflict 1989-95, (1996) 33 Journal of Peace Research 3 at 355.

[174] See Y. Dinstein, *War, Aggression Self*-Defence, Cambridge: CUP, 1994 at 6.

the outcome is that involvement of the US-led coalition does not render the conflict internationalized. The nuance lies in the fact that the US-led coalition does not support the armed opposition groups that fight against the Syrian incumbent government. Moreover, out of almost 4000 coalition airstrikes[175], none have targeted Syrian regime forces, nor the territory held by Syrian incumbent government; in other words, the coalition has exclusively targeted ISIS. CA2 definition requires hostilities to take place between two states in order for it to qualify as an IAC. However, an attack by the US against ISIS-held Syrian territory might, arguably, be seen as an attack against Syria. Thus, the issue of consent of Syria comes into question again[176]. If it is established that lack of consent on the part of Syria internationalizes the conflict, then there may exist several scenarios according to the approaches of complete internalization and pairings. Under complete internalization there appears to be an IAC between Syria and the US by way of internalization of the prima facie NIAC between ISIS and the US. Secondly, under the pairings approach there exists the possibility of a parallel IAC between Syria and the US along with two possible NIACs: one between SDF and ISIS, the other between the US and ISIS.

It may well be argued that collaboration of the US with SDF in the fight against ISIS may be evaluated under the framework of a proxy relationship or of a complete dependence and control which equates a non-state armed group and supporting state. This strong link and the following equation of their actions prevent the possibility of a NIAC between SDF and ISIS while there exists a NIAC between the US and ISIS. However, if the link in question was rather tenuous in terms of the degree of overall control or effective control. then there

[175] US Department of Defense, Operation Inherent Resolve: Targeted Operations against ISIL Terrorists, (Apr. 26, 2016), http:// www.defense.gov/News/Special-Reports/0814_Inherent-Resolve, (3.09.2017)
[176] Refer to the issue of non-consensual military intervention and the role of consent under the topic of Syria-Turkey above at Part I. See also T. D. Gill, note 113.

may be talk about the existence of parallel NIACs: one between the US and ISIS and the other between SDF and ISIS.

5. Involvement of Iran and Russia in Support of the Assad Régime

Involvement of Iran and Russia within the Syrian armed conflicts may seem straightforward, as they are supporting the territorial government (the Syrian incumbent Government otherwise known as the Assad Régime). However, views diverge on this issue and it has been suggested that any involvement by third States internationalizes that conflict as a whole[177].

Russia and Iran have taken part in Syrian armed conflicts with consent or by invitation of the Syrian incumbent government. Russia has been fulfilling this costly role out of loyalty, given its long-standing interests in the region[178]. Similarly, Iran is providing military support in exchange for its religious and political influence throughout the region otherwise as known the *Shia crescent* or *axis of resistance*[179]. Iran has reportedly deployed some several thousand troops directly in support of Syrian incumbent government besides other types of assistance such as financial and intelligence[180]. Likewise, Russia, as of August 2015, began to deploy ground, naval and air forces in support of Syria.

The majority of scholarly literature suggests that involvement of a third state in support of an incumbent government does not render a conflict international[181]. It follows therefore, that Russia and Iran are there in Syria to fight on behalf of and in alliance with

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[177] See for example V. Bilkova, New Challenges to the Classification of Armed Conflicts, (2015) 20 *Recueils de la Societe Internationale de Droit Militaire et de Droit de la Guerre* 287 at 292.
[178] Tartus naval base, Khmeimim air base, Latakia listening station are among those already known. However, Russian influence in and cooperation with Syria dates back to early 1970s. See A. Mercoiuris, "Russia's military bases in Syria", 9 Feb. 2017, http://theduran.com/russias-bases-syria/, (03.08.2017)
[179] Iran's desire for influence should be read together with its support for Shia armed groups like Hezbollah. See M. Behravesh, "But really, why is Iran still backing Assad? A psychological analysis", 11 Feb. 2017, http://www.middleeasteye.net/columns/loyal-end-iran-s-assad-commitment-653248723, (13.08.2017)
[180] "Iran's Evolving Pol-icy in Iraq and Syria", *THE ECONOMIST*,8 January 2015, http://bit.ly/2vOi3hi (01.09.2017)
[181] See S. Wills, 'The Legal Characterization of the Armed Conflicts in Afghanistan and Iraq: Implications for Protection', (2011) 58 *NILR* 173;.E. Crawford and A. Pert, note 195 at 74.

Syrian incumbent government. By definition, this does not internationalize the conflict as CA2 requires two conflicting states. Involvement of Iran and Russia in support of Syrian incumbent government can be likened to the situation of the US, UK and other NATO member states fighting against Taliban in support of the government of Afghanistan after 2001[182]. Nevertheless, not everyone agrees with this opinion[183]. Opponents thereof argue that involvement of third states even in support of incumbent government internationalizes that conflict[184]. In line with this approach, Russian and Iranian involvement within the Syrian armed conflicts in support of the Assad *Régime* has internationalized the Syrian armed conflicts. However, this does not seem too reflect the reality on the ground whereby no state regards themselves as in an IAC with each other in Syria as no action has yet occurred between them[185]. As a result, involvement of Russia and Iran in support of Syria does not internalize Syrian armed conflicts and thus the IAC regime is not applicable between them and other states[186].

6. Transnational Armed Conflict

Transnational armed conflict otherwise known as extra-state armed conflict[187] has been perceived as an new category of armed conflict by breaking the duopoly of IAC-NIAC and thus creating a third category[188]. However, scholarly literature suggests that this perception

[182] See A. Bellal, G. Giacca and S. Casey-Maslen, International Law and non-state actors in Afghanistan, (2011) 93 *IRRC* 51 at 52.
[183] See for example V. Bilkova, note 177 at 292.
[184] See for example D. Schindler, International Humanitarian Law and Internal Armed Conflicts, (1982) 22 *IRRC* 230 at 256. See also E. Crawford and A. Pert, note 195 at 73.
[185] T. D. Gill, note 113 at 376.
[186] Involvement of Iran and Russia neither affects the classification of Syrian armed conflicts nor creates additional armed conflicts. See T.D. Gill, note 113 at 375.
[187] R. Schondorf, Extra-State Armed Conflicts: Is there Need for a New Legal Regime?, (2003) 37 *NYU J Intl L & Pol* 61.
[188] G. Corn, Hamdan, Lebanon and the Regulation of Armed Hostilities: The Need to Recognize a Hybrid Category of Armed Conflict, (2006) 40 Vanderbilt Journal of Transnational Law 295; G. Corn and E. Talbot, Transnational Armed Conflict: A Principled Approach to the Regulation of Counter Terror Combat Operations, (2009) 42 *Israel Law Review* 46.

is misguided as a result of misinterpretation of CA3 and AP II. In other words, it is thus submitted that transnational armed conflict is but a sub-category of NIAC[189].

Transnational armed conflict is mentioned when there is an armed conflict between a state (or states) and one or several non-state actors (dissident army, armed opposition groups or terrorist organizations) which take place in the territory of more than one State[190]. In line with this description, for Syrian armed conflicts, the transnational element is represented by ISIS. The existence of ISIS within Syrian armed conflicts as a territorial terrorist organization holding the lands of both Syria and Iraq[191] adds a transnational element to the Syrian armed conflicts.

Once a transnational element has been introduced to a conflict this brings the possibility of it being a NIAC or an IAC or both[192]. Although occasionally, a transnational armed conflict may yield to an IAC if it is established that the non-state actor is acting under a necessary level of control of another state[193]. Given the fact that ISIS is not supported[194] but is explicitly condemned by almost all other states, it cannot be concluded that an IAC exists, judging by the transnational element that ISIS has introduced. Thus, armed conflicts in Syria whereby ISIS has been involved, continue to qualify as NIACs, considering the fact that they satisfy the criteria to qualify as such.

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[189] See S. Sivakumaran, (2014) note 147 at 229. N. Lubell, note 30 at 421, 440.
[190] Otherwise, supposing that the threshold requirement is met, a transnational armed conflict should qualify as a NIAC. See V. Bilkova, note 177 at 296.
[191] For current borders see "Map of Syrian Civil war", http://syria.liveuamap.com/en, (09.08.2017) See also "Syrian Civil War Map", http://syriancivilwarmap.com/, (27.08.2017).
[192] E. Crawford and A. Pert, note 195 at 72.
[193] See UN Commission of Inquiry for the 2006 Lebanon Crisis, *Report,* UN Doc. A/HRC/3/2, 23 November 2006 at para 58.
[194] Nevertheless, there are some indications showing that some states might have supported ISIS at least for a while. See for example "Amerika üç uçak silah indirdi yarısı DAEŞ'e yarısı PYD'ye gitti", http://bit.ly/2gVhJqV (09.08.2017) where Turkish President Erdogan claims that half of the US weapons distributed in Kobani were handed to ISIS. However, such allegations, even when proven to be true might not suffice for effective control test thus, does not affect classification of armed conflicts in the region.

PART IV: CONCLUDING REMARKS

1. Effect of Classification of Armed Conflicts of Syria

It is argued that, in face of the developments in the area of customary international law the gap between the applicable law of IACs and NIACs has diminished citing the codification of customary law study of the ICRC whereby claiming that most of the rules of LOIAC are applicable to NIACs as well[195]. Although, there is a growing trend of merging the two areas of law it seems impossible to forge a full merger[196]. Thus, there remains some difference between the law applicable to IACs and NIACs[197]. Especially, the status of non-state armed groups and their members, detention of persons who are captured or detained for security reasons, prisoners of war and occupation[198] are some issues treated differently or simply non-existent under rules relating to NIACs[199].

The first and most visible effect of classification of armed conflicts[200] can be seen in the area of applicable law. As Milanovic suggests, treating a complex situation as an IAC might overburden the non-State actors as they may find it hard to comply with relevant IHL rules and may simply end up disregarding the whole set of rules[201]. Different legal frameworks require a variety of thresholds and requirements for armed conflicts. Therefore, based on the facts and requirements that an armed conflict meets it might either be subject to CA3 or CA2 or AP II or AP I or may be governed by customary IHL simultaneously with or separately of the instruments or articles referred above. Moreover, it is important to

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[195] See E. Crawford and A. Pert, *International Humanitarian Law* (Cambridge: CUP, Press, 2015) at 39.
[196] Y. Dinstein, (2012) note 38 at 407.
[197] D. Fleck, Non-International… (2013) note 43 at 610.
[198] See. J. K. Kleffner, (2014) 122 note at 61.
[199] See. T. D. Gill, note 113 at 377-378.
[200] S. Sivakumaran, (2012) at 69 et seq.; M. Milanovic, Taxonomy… p. 302
[201] M. Milanovic and V. H. Vidanovic, 'A Taxonomy of Armed Conflict', in C. Henderson and N. D. White (eds), Research Handbook on International Conflict and Security Law, (Edward Elgar Press, 2013) at 302.

remember that while not a party to APII, Syria is a party to API as is Russia[202]. Turkey, however, is neither a party to API nor to APII.

For IACs, the intensity of violence is low and identification of IACs is relatively simple. However, when it comes to the matter of internalization of an armed conflict diagnosis, more complex analysis is required. No matter how it was concluded that there exists an IAC, it shall either be governed by the framework of CA2 or AP I. Other problematic issues regarding internalization or international armed conflicts are the issue of consent of the territorial state, the nature of the link between the supporting third states and non-state armed groups supported. These issues have cardinal consequences on the classification or the number of IACs and NIACs. Similarly, the question of whether ISIS or other non-state armed groups can be a belligerent occupant *vel non,* relies mainly on the classification of Syrian armed conflicts.

The applicability of law of non-international armed conflict depends on the existence of an armed conflict whereas the situations falling short of an armed conflict remain subject to domestic law. Thus, it is important to identify if there is indeed an armed conflict. The provision of article 1(2) of AP II exemplifies situations of violence that do not meet the 'armed conflict' threshold whereby including riots, isolated and sporadic acts of violence. Such internal disturbances are governed by human rights regime where use of lethal force is seen as the last option whereas in an armed conflict, whether a NIAC or an IAC, recourse to lethal force in the first place is allowed as a normal course of action even when the person in question is not an imminent threat[203]. In an IAC, members of the warring parties cannot be

[202] ICRC, "Treaties, States Parties and Commentaries", http://bit.ly/2xUTgc0 (29.08.2017).
[203] See A. Orekashvili, "The interaction between the Human Rights and Humanitarian Law: Fragmentation, Conflict, Parallelism or Convergence?" (2008)19 *EJIL* 161.

punished for their mere participation in hostilities[204]. However, it may be furthered that identification of armed conflicts is not of a big problem in Syrian armed conflicts since they generally go excessively beyond the thresholds required for relevant law.

2. Non-State Armed Groups as Belligerent Occupants?

It is generally accepted that belligerent occupancy requires an international texture[205]. In other words, belligerent occupancy is usually confined to IAC situations. In order for ISIS or other non-state organizations to be belligerent occupant there should be an international texture. It follows the argument that Syrian *prima facie* non-international conflict has gained an IAC nature at some point. That arguably opens the door for ISIS to be a belligerent occupant. In addition, Dinstein is of the opinion that for a situation to be regarded as an IAC, objective criteria of statehood should be met regardless of the recognition by other states or by international community as with the case of the Taliban. To him, armed conflict in Afghanistan was an IAC until 2014[206].

There is no specific body of rules of IHL to regulate cover the territory whereby a non-state armed group exerts effective control. Although it is suggested that the body of law of belligerent occupation is unworkable[207] in NIACs, with some rules thereof are applicable by way of custom or treaty[208]. Thus, even though it is accepted that the law of belligerent occupancy is not completely applicable to the territory where ISIS controls, rules such as those regarding the judicial guarantees, fair trial and the interdiction of pillage, reprisal and collective penalties, deportation and forcible transfer of population can be applicable.

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[204] I. Detter, *The Law of War*, (Cambridge: CUP, 2000) at 135, 326. See also R. Kolb and R. Hyde, note 209 at 209.
[205] See for example Y. Dinstein, *Law of Belligerent Occupation*, (Cambridge: CUP, 2009) at 33. H. P. Gasser and K. Dörmann, note 60 at 264.
[206] Y. Dinstein, The Conduct of Hostilities under the Law of International Armed Conflict, (Cambridge: CUP, 2016) at 65.
[207] Cf. S. Sivakumaran, Courts of Armed Opposition Groups: Fair Trials or Summary Justice', (2009) 7 *J Int'l Criminal Justice* 489 at 510.
[208] See for example S. Sivakumaran, (2011) 129 at 245.

Nevertheless, the willingness and capability of ISIS or other non-state actors to apply such rules relates to enforcement of IHL which will not be dealt with here for reasons of space.

Although the majority of scholarly literature prefers the idea that the law of belligerent occupation requires an international texture and thus is inapplicable in NIACs[209] it may be reassessed on the identity of non-state armed groups on the occasions such as the acceptance of belligerent status or their being an NLM. Therefore, some of the non-state armed groups like YPG might contend that they are belligerent occupant where they exert effective control.

Conclusion

Syria had, literally, been the cradle of civilisations for many centuries. Many ethnic and religious groups had co-existed in Syria and contributed to the development of mankind. However, the emergence colonialism, nationalism and nation-states have produced unprecedented consequences in the past two centuries. Syrian armed conflicts seem to be an unwelcomed return of abovementioned historical developments. Nonetheless, it is for states and non-state actors to deal with these problems within the confines of law. This study may be regarded as an effort to identifying the conflicts and parties to them without however losing sight of the evaluation and application of existing approaches found in IHL.

In the first part of this study, possible IACs have been touched upon where the State practice, by declining to accept that they have engaged in an IAC with another state, supports that states prefer to stick to higher threshold for IACs which requires sustained violence between states[210]. The second and third sections of the study focused subsequently

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[209] R. Kolb and R. Hyde, *An Introduction to the International Law of Armed Conflicts*, (Oxford: Hart Publishing, 2008) at 69. Y. Dinstein, note 205 at 33;

[210] However, it is suggested that, higher threshold for IAC should not be invoked where there are clear grounds calling for the activation of IAC rules such as occupation. Therefore, it follows that Turkey and Israel cannot pretend to have engaged in NIACs or simple strikes of self-defence against non-state armed groups while occupying some part of Syrian territory.

on NIACs and internalization of *prima facie* NIACs in the context of Syrian armed conflicts. Finally, by applying existing approaches to Syrian armed conflicts and further discussion on the nature and the classification of Syrian armed conflicts, the consequences has been addressed under IHL. The main contenders have been identified under relevant sections[211]. The Syrian incumbent government is the first main contender and a party to almost any conflict in Syria. The SAA has tried where possible to gain the control of significant territory before any peace agreement has been made[212]. In its fight against non-state armed groups, the SAA is primarily assisted by Russia and Iran.

ISIS, as an outlawed terrorist group against which UN Security Council resolutions have been passed[213], created a *sui generis* situation whereby the number of possible IACs in Syrian armed conflicts is reduced[214]. Considering the military and political support for YPG from the US[215] and NATO much belated military response from the international community against ISIS might be a sign argue that ISIS has been used as a place-holder to re-draw the boundaries in the region[216]. What other novelties this peculiar status of ISIS will introduce to

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[211] The current map of Syria is basically divided into four different sections. The SAA holds the first and the biggest part of Syria. In the north next to the Turkish border, there are two more pieces of Syrian territory captured by YPG/SDF to the east, and to the west, anti-government opposition armed groups (FSA, Ahrar al Sham, HTS, and other groups). The fourth main area captured by ISIS, remains sandwiched between the SAA and YPG forces. Being relatively smaller in portion, there is a Turkish occupation, in the north in between the YPG and anti-government opposition-held areas which also cuts the link of Kurdish canton "Afrin" with YPG/SDF. Furthermore, mention must be made of the Israeli occupied Golan Heights in the overall picture of Syrian map.

[212] See T. D. Gill, note 113 at 356.

[213] All member states have been called upon to take all necessary measures against ISIS. See "Threats to international peace and security caused by terrorist acts", UN SC Res. 2249, 20 November 2015, https://www.un.org/en/sc/documents/resolutions/2015.shtml (31.07.2017)

[214] Between 1946 and 2012 IACs has been always low in percentage (always less than 10 %) compared to NIACs (reaching over 50 %). Undoubtedly, criteria for classification of armed conflicts has a big role in these percentages. See L. Themnér and P. Wallensteen, Armed Conflicts, 1946—2012, (2013), 50 Journal of Peace Research 4 at 512. It has also been suggested that since NIACs became way too many in number compared to IACs the focus of humanitarian law should be on NIACs rather than IACs. Nevertheless, it is a fact that NIACs has less regulated than IACs. See P. Wallensteen and M. Sollenberg, note 173 at 356.

[215] See for example M. Glindon, "We owe Kurds a great debt", *News Guardian*, 20 July 2017, http://www.newsguardian.co.uk/news/we-owe-kurds-a-great-debt-1-8658594, (31.07.2017)

[216] Some have argued that once ISIS has been defeated the liberated territory should be given to Kurdistan and the US seems support this political position. See for example "The Defeat of ISIS Must Mean an Independent Kurdistan", The New York Times, 13 July 2017, https://www.nytimes.com/2017/07/13/opinion/isis-mosul-

the realm of international law has yet to be seen, though what does seem clear is that states have used the existence of ISIS to intervene into Syrian territory without having to engage in an IAC with Syria.

Syrian people have been suffering from the effects of armed conflicts for more than five years such as destruction of cities and many violations of IHL. Moreover, there have been hundreds of warring parties in these conflicts[217]. However, it should not be too optimistic to claim that the Syrian armed conflicts have come close to an end recently, with the SAA gaining greater part of Syria and de-escalation zones established through Astana Talks on 4 May 2017 by guarantor states Russia, Iran and Turkey.

kurdistan.html, (02.08.2017). This argument might be of relevance to explain why the US-led coalition in support of SDF is racing against Syria to gain more territory from ISIS.

[217] C. E. Humud, C. M. Blanchard and M. B. D. Nikitin, note 104 at 9.

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