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Armed Conflict and Compliance in Muslim States, 1947-2014: Does Conflict Look Difference under International Humanitarian Law

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Armed Conflict and Compliance in Muslim States, 1947–2014: Does Conflict Look Different under International Humanitarian Law?

Corri Zoli, Emily Schneider, and Courtney Schuster

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I. Introduction

We shall not enter into any of the abstruse definitions of War used by publicists.¹

One of the central challenges confronting international relations today is that we do not really know what is a war and what is not. The consequences of our confusion would seem absurd, were they not so profoundly dangerous.²

If one asks what may cause war, the simple answer is ‘anything.’³

Regions with large Muslim populations in the Middle East, Asia, and Africa are no strangers to conflict and warfare, including protracted strife.⁴ Yet, remarkably few datasets have focused on Muslim states in their conflict behavior, and even fewer studies in the now expansive field of quantitative conflict research have examined the role of state compliance with the international law regulating armed conflict (international humanitarian law) as a variable in such conflict behavior. The slim inquiry on Muslim state conflict and compliance behavior contrasts with otherwise intensive study of closely related subjects: political violence in Muslim societies, democracy deficits in the Arab world, political Islam and stability, Arab resource and development dynamics, ethnic identity and religion in civil war, and so forth.

Addressing this paradox raises intriguing questions at the

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¹ CARL VON CLAUSEWITZ, On War, in THREE VOLUMES 1, 1-2 (1918).
³ Kenneth Waltz, Structural Realism after the Cold War, 25 INT’L SEC. 5, 8 (2000).
⁴ Monica Duffy Toft, Getting Religion? The Puzzling Case of Islam and Civil War, 31 INT’L SEC. 97 (2007); see Jonathan Fox, Are Middle East Conflicts More Religious?, MIDDLE EAST Q. 31 (Oct. 2014) (explaining how conflict in Muslim populated countries tend to be more religiously charged); MOHAMMED M. HAFEZ, WHY MUSLIMS REBEL: REPRESSION AND RESISTANCE IN THE ISLAMIC WORLD (2003); see also Andrej Tucisny, Civilizational Conflicts: More Frequent, Longer, and Bloodier?, 41 J. PEACE RES. 485 (2004) (discussing the higher likelihood of escalation of conflicts among different civilizations than conflicts within a single civilization).
intersection of international relations, public international law, and security studies, and injects an empirical baseline for assessing now commonplace claims that Muslim-dominated areas disproportionately experience conflict, political violence, lawlessness, and instability. Recent political upheavals in the Middle East and North Africa (MENA) region have only increased the need to examine such patterns rigorously and in ways that add emergent variables—such as law and compliance—to the existing literature.\(^5\) Likewise, cross-national inquiry on Muslim inter- and intra-state conflict dynamics may help to identify important related developments, such as the effects of compliance on post conflict stability and the rise of irregular armed groups with a Muslim state locus (i.e., as a safe haven, conflict zone, or training site).\(^6\)

Toward these ends, the article introduces a new Muslim State Armed Conflict & Compliance (MSACC) dataset\(^7\) that provides an overview of modern armed conflict and international law compliance behavior for all Muslim states from 1947-2014.\(^8\) The

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\(^6\) Christopher Blattman & Edward Miguel, Civil War, 48 J. ECON. LITERATURE 3 (2010) (explaining in abstract that cross-national studies will benefit our understanding of war and its causes).


\(^8\) We define “Muslim state” by membership in the Organization of Islamic Cooperation (OIC), the intergovernmental organization of 57 members, including Palestine, with permanent U.N. delegation status (we exclude Palestine as it is not recognized by the U.N. as a state). See Member States, ORG. OF ISLAMIC COOPERATION, http://www.oicum.org/3/28/#nogo (last visited Oct. 28, 2014) [hereinafter OIC Member States] (enumerating member OIC states). State membership in the OIC is fluid so we determined membership as of 2010, when we began our research. Since then, Bosnia was added to the OIC in April 2013 and Syria was suspended in August 2012. Established in 1969, OIC defines itself as “the collective voice of the Muslim world” designed to “safeguard and protect the interests of the Muslim world in the spirit of promoting international peace and harmony among various people of the world.” We use this framework for two reasons. First, OIC member states are inclusive of the traditional 47 Muslim population-majority states in which the population is at least 50.1 percent Muslim—with the exception of Muslim-majority state Kosovo, which is not an OIC member. In addition to the traditional 47 Muslim-majority states (minus Kosovo),
MSACC dataset tracks each modern Muslim state, defined by voluntary state membership in the Organization of Islamic Cooperation (OIC), in both its armed conflict history and compliance record with international humanitarian law (IHL), and the universal international regime governing conduct of hostilities during armed conflict. The dataset encompasses all international (IAC) and non-international (NIAC) armed conflicts as defined by IHL in which a Muslim state acts as a major belligerent party.

In using an IHL-based definition of armed conflict, the dataset is distinctive in several ways. First, it relies upon a legal, instead of a political–sociological (i.e., battle deaths) framework for understanding and defining armed conflict. Second, it disaggregates the complex contemporary conflict spectrum into two streamlined types, international and non-international conflicts, as required by respective threshold triggers under IHL. Third, it focuses holistically on self-identified Muslim states in their actual conflict and compliance behavior, rather than on

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we include the additional 11 OIC countries without a simple Muslim-majority population, largely in Africa: Benin, Cameroon, Cote d’Ivoire, Gabon, Guinea-Bissau, Guyana, Mozambique, Nigeria, Suriname, Togo, and Uganda. Notably, countries with sizeable Muslim populations, India, China, and Russia (though Russia is an OIC observer state since 2005) are not members of OIC, either because they have been blocked (India), or do not see the benefits of identifying as a “Muslim state” for purposes of national identity or intraregional politics. Second, we use this more expansive definition of “Muslim state” to take into account state’s self-identification, as all OIC member states adopt a Muslim state identity, whether for religious, sociocultural, national, economic, and/or policy reasons, including regional balance of power issues. OIC has thus come to project, as per OIC Charter Article II(a)(b), a regional policy agenda expressly affiliated with Muslim states and Muslim notions of governance, particularly for the audience of the international community. This policy projection creates some sense of common purpose among diverse OIC member states, with respect to regional and international issues. See Gairuzazmi Ghani, Does OIC Membership Reduce Trade?, 28 J. EcoN. COOPERATION 39, 41-43 (2007) (discussing the background of Muslim-states and incidences of conflict); PEW RES. CENTER’S F. ON RELIGION & PUB. LIFE, http://www.pewforum.org/ (last visited Aug. 12, 2013).

9 OIC Member States, supra note 8 (listing the fifty seven member states of OIC).


11 See generally Rule of Law in Armed Conflicts Project, GENEVA ACADEMY INT’L HUMANITARIAN L. & HUM. RTS., http://www.geneva-academy.ch/RULAC/ (last visited Oct. 16, 2013) (reporting on every concerned State and disputed territory in the world through the use of a global database to support the application and implementation of international law in armed conflict).
variables of presumed importance (i.e., regime attributes and other proxies). Finally, it correlates conflict and IHL compliance data in ways that offer new insights into traditional problems of conflict and war. By utilizing this data, one can examine Muslim state conflict trends, including by region, time period, and conflict type (i.e., IAC or NIAC), and provide baseline data for Muslim states that may be correlated with other data (e.g., development reports, security expenditures, human rights).

In what follows, we introduce the data, its IHL-based assumptions, and discuss resulting differences from extant datasets. By using bivariate analyses, we then demonstrate spatial and temporal patterns in the conflict behavior for Muslim states, and, finally, conclude with a discussion of future research on the subject.

II. Muslim States, Ethnicity, and Religion in Quantitative Conflict Studies

In the empirical conflict literature in political science, war is generally understood as a political or economic development issue—not an international legal matter. While political and legal premises are by no means mutually exclusive, little quantitative conflict research examines the highly conventional nature of war in the legal sense, the vast body of modern international treaty and customary law regulating war as it informs state-based conflict behavior, or the role of international law in defining what counts as war in the interstate system in the first place. Accordingly, scholars generally interpret conflicts in Muslim states, particularly in the Middle East and Africa, as best explained by political regimes, grievances, economic and natural resource variables, and their analytical proxies (i.e., authoritarianism, per capita income, population size, economic

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13 See generally Hew Strachan & Sibylle Scheipers, The Changing Character of War 17-20 (Hew Strachan & Sibylle Scheipers eds., 2011) (arguing that post-Cold War and 9/11 “new wars” scholarship is often “historically unaware,” beholden to theories that “privilege some wars and certain trends over others,” in ways that ignore “the messiness of reality” and fail to examine “the other dimensions” that “help us to define what war is legal, ethical, religious, and social”).
development)—not by conflict behavior and international norm compliance in and after conflict.\textsuperscript{14} This and the next section address the significance of a legal definition of armed conflict today—\textit{contra} Clausewitz—in highlighting some potential comparative advantages of this data.

Research in political science and economics has long favored regime type and economic development as the most common correlates of interstate war,\textsuperscript{15} while similar rubrics apply to intrastate conflicts.\textsuperscript{16} It is now axiomatic in interstate conflict, for instance, that “[d]emocracies rarely go to war with one another,” though underlying causal mechanisms (less so theories) have been revised over time.\textsuperscript{17} Likewise, for intrastate conflict, statistically significant variables are dominated by political and especially economic factors.\textsuperscript{18} Until recently, for instance, debate on civil war centered on whether economic resources (“greed”) or political regime variables (“grievance”) correlate with war.\textsuperscript{19} Paul Collier and Anke Hoeffler’s classic essays on “greed over grievance,”\textsuperscript{20}

\begin{enumerate}
\item \textsuperscript{14} See \textsc{Von Clausewitz}, supra note 1, at 11-13 (discussing the tension between political and legal facets of war).
\item \textsuperscript{15} See generally Anke Hoeffler, \textit{On the Causes of Civil War}, in \textsc{Oxford Handbook of the Economics of Peace and Conflict} 179 (Michelle Garfinkel & Stergios Skaperdas eds., 2012) (discussing how the different approaches for determining causes of war are much more like correlates than actual causes).
\item \textsuperscript{16} Uppsala Conflict Data Program, Department of Peace and Conflict Research, Onset of Intrastate Armed Conflict, http://www.pcr.uu.se/research/ucdp/datasets/onset_of_intrastate_armed_conflict/ [hereinafter Uppsala Data Set] (making available UCDP datasets for intrastate armed conflicts).
\item \textsuperscript{18} Uppsala Data Set, supra note 16.
\item \textsuperscript{19} See generally Havard Strand, Onset of Armed Conflict: A New List for the Period 1946-2004, with Applications (unpublished Ph.D. thesis) (on file with the Department of Political Science, University of Oslo & the Centre for the Study of the Civil War, PRIO) (discussing new onsets of armed conflict and taking into account ambiguous nature of defining causes of war such as an emphasis on the effect of political regimes).
\item \textsuperscript{20} See Paul Collier & Anke Hoeffler, \textit{On the Incidence of Civil War in Africa}, 46 J.
and Collier's subsequent work with Nicholas Sambanis, find economic variables—poverty, abundant natural resources, and low national income—key to explaining civil strife, above and beyond political grievances or matters of social identity, including ethnic cleavages. James Fearon and David Laitin also find economic factors, such as rebels' resource advantages and political variables, such as bureaucratically weak states and political instability, important in civil war outbreak. Other works in this vein have explored the role of natural resources and economic shocks; while more recent works have returned to regime-type factors from resource-based variables to predict political instability.

In the last decade, however, a growing body of research—

CONFLICT RESOL. 13 (2002) (finding that Africa's proneness to conflict is due to its economic structure); Paul Collier & Anke Hoeffler, *Greed and Grievance in Civil Wars*, 54 OXFORD ECON. PAPERS 563 (2004) (contrasting the idea that motive for rebellion should be the emphasis of study with the idea that economic accounts need a stronger emphasis with regard to conflict); Paul Collier, Anke Hoeffler & Dominic Rohner, *Beyond Greed and Grievance: Feasibility and Civil War*, 61 OXFORD ECON. PAPERS 1 (2009) (introducing the feasibility hypothesis, which states that where civil war is feasible, it will result regardless of motivation).


some skeptical of econometric methods and assumptions—has posited that ethnicity and also religion are core, if neglected, elements in the conflict puzzle in ways not yet adequately understood or measured. After all, when Fearon and Laitin explained the prevalence of post-Cold War civil violence in economic and political conditions favoring insurgency, they were arguing against then conventional wisdom that linked modern civil wars to ethnic and religious antagonisms. The early standard bearer in this discussion was Samuel Huntington’s cultural or civilizationalist frame on inter/intra-national conflict. Notably, Huntington posited cultural and demographic features in Islamic societies that made them conflict prone and described Islam as having “bloody borders” or “bloody innards”—euphemisms for Islam’s respective role in interstate or intrastate wars. Such


27 Fearon & Laitin, supra note 22, at 79-82.


29 Id.; see also Tusicinsy, supra note 4, at 490-97 (validating some of Huntington’s theses using the Uppsala’s ACD); Indra de Soysa & Ragnhild Nordas, Islam’s Bloody Innards? Religion and Political Terror, 1980–2000, 51 INT’L STUD. Q. 927, 938-40 (2007) (finding that states demographically dominated by Muslims are less likely than
analysis was by no means exceptional at the time. Gellner, for instance, argued that the larger the number of ethnic groups in a country, the more likely nationalist conflicts would occur. Even after the demise of the Soviet Union, scholars shifted methods, but generally still explained internal conflicts in terms of ethnic and religious nationalisms.

To be sure, ethnic mobilization—as well as social identity factors, cultural nationalism, and religious behavior—have been longstanding subjects of concern in conflict. It was only with the advent of large cross-national datasets, notably, Singer and Small’s Correlates of War project in the 1970s, as well as Uppsala University’s Armed Conflict Dataset (ACD) later, that ethnicity and religion were found to be “much less important than [was] commonly believed” in “systematically” increasing civil war. In fact, large-N studies were pivotal in finding diverse societies “usually safer than more homogenous societies,” as disputes along ethnic-religious lines were only more likely “to turn violent in countries with low and declining incomes.” Further, such diverse
states showed no greater civil war risk when compared with non-diverse states at similar economic development levels. Yet, the fact remained that civil wars, which have dominated global conflict since 1945, often display highly ethnically and/or religiously charged elements, and these conflict subtypes tend to comprise a larger share (50 to 75 percent) of internal conflicts in the modern period.

Thus, more recent studies have begun both to complicate the "commonly supposed" view, as Fearon, Kasara and Laitin note, that civil war is more likely in ethnically diverse societies; that "plural societies" are more prone to intense internal conflict; and, at the same time, probe more fully the lack of statistical evidence for ethnic and religious elements in motivating various conflicts.

37 See Fearon & Laitin, supra note 22, at 78; Paul Collier, *Economic Causes of Civil Conflict and Their Implications for Policy, in Leashing the Dogs of War: Conflict Management in a Divided World* 197, 197-98 (Chester A. Crock et al., eds., 2007).


Cederman, Weidmann, and Gleditsch also find that when horizontal (rather than individual) inequalities among ethnic groups are considered, ethnic groups in highly unequal societies turn out to be more conflict prone than their counterparts in relatively equal societies.\textsuperscript{41} Likewise, drawing on new data and a combined ethnic and religious diversity measures for social fractionalization, Collier, Hoeffler, and Rohner clarified the ambiguous effect of ethnicity in their original study to outline a simpler relationship; namely, social fractionalization significantly increases risk, with the greatest implications for the most ethnically-diverse societies (i.e., Africa).\textsuperscript{42}

This inquiry trend is similar—if less robust—for religion in the quantitative conflict literature.\textsuperscript{43} Serious theory building and cross-sectional quantitative studies emerged only later in the 1990s—in part due to the strength of dominant modernization and secularization theories that treated religion as a declining force in politics and world affairs.\textsuperscript{44} But the rise of the religious right in U.S. domestic politics, the Iranian revolution and hostage crisis (brought home to the West), violent Islamic opposition movements in Iran, Algeria, Afghanistan, and elsewhere, and the religious underlay of many postwar ethnic conflicts (e.g., Israel, Lebanon), not to mention 9/11 itself, lent force and urgency to renewed inquiry in religion and politics. What some termed the religious “resurgence” thesis emerged, which approached religion as an adaptive response to modernity and as a way for nonwestern states to challenge modern secular ideologies that had failed to deliver on


\textsuperscript{42} See generally Paul Collier, Anke Hoeffler & Dominic Rohner, \textit{Beyond Greed and Grievance: Feasibility and Civil War}, 61 \textit{OXFORD ECON. PAPERS} 1, 38 (2009) (discussing data sources used for social fractionalization, measured by the ethno-linguistic fractionalization index and the religious fractionalization sources).


\textsuperscript{44} JONATHAN FOX, \textit{RELIGION, CIVILIZATION, AND CIVIL WAR: 1945 THROUGH THE MILLENNIUM} 13 (2004).
their promised economic prosperity and social progress.⁴⁵ For instance, Fox’s analysis, based on the Minorities at Risk (MAR) and State Failure (SF) datasets, shows an increase in religious violence and its influence on conflict dynamics after 1965, contradicting modernization and secularization theory, and the expanding role (after 1980) of religious nationalist ethnic groups in violent conflicts.⁴⁶

Given the recent trend in the literature, it is worth bringing ethnicity and religion back into conflict studies—one of the endeavors of this essay. But while progress has been made in wresting ethnicity—and to a lesser extent religion—from methodological and conceptual limits in conflict research in ways that remain promising for conflict research on Muslim states, elemental questions still remain about what constitutes ethnicity, religion, and nationalism, how one correlates and delineates variables for these complex relationships, how such variables relate to broader geopolitical conflict dynamics, and how those dynamics impact Muslim state involvement in conflict.⁴⁷ As these questions are explored in both meta-national datasets and in country-specific micro foundation settings, problems of complementary definitions and methodologies among formal approaches have also emerged.⁴⁸

⁴⁵ MONICA DUFFY TOFT, DANIEL PHILPOTT & TIMOTHY S. SHAH, GOD’S CENTURY: RESURGENT RELIGION AND GLOBAL POLITICS (2011) (examining the role of religion in civil wars from 1940 to 2000).

⁴⁶ See Erik A. Gartzke & Kristian Skrede Gleditsch, Identity and Conflict: Ties that Bind and Differences that Divide, 12 EUR. J. INT’L REL. 53, 55-56 (2006) (examining the impact of religion on armed conflicts); see also Daniel Philpott, Explaining the Political Ambivalence of Religion, 3 AM. POL. SCI. ASS’N. 505, 505 (2007); see also Monica Duffy Toft, Getting Religion? The Puzzling Case of Islam and Civil War, 31 INT’L SEC. 97, 97 (2007); see also Tusicisny, supra note 4, at 485.


⁴⁸ See generally Stathis N. Kalyvas, Promises and Pitfalls of an Emerging Research Program: The Microdynamics of Civil War, in ORDER, CONFLICT, VIOLENCE (Ian Shapiro & Tarek Masoud eds., 2008) (discussing the two converging insights that have exerted pressure on the direction of recent conflict research: (1) a growing skepticism about the limits of especially cross-country metastudies which has fostered a helpful return to detailed country-specific cases and micro foundation research; and (2) the view, described here, that religious and ethnic “motivations” are core elements of
As Sarkees, Wayman, and Singer explain, the “proliferation of data-gathering projects on armed conflict” in which every project develops “its own foci and definitions of what constitutes armed conflict” and uses “different criteria” has produced contradictory results.49 Sarkees likewise notes “confusion in the discipline” in which “some types of conflict (and some temporal zones) are heavily studied” (i.e., conflict in the post–World War II era), leaving others “ignored or under-studied”; since “most of these projects examine conflict in such different ways,” it makes attempts “to compare their findings” a “frustrating exercise.”50 After comparing datasets, Eberwein and Chojnacki concluded that “the real world is one, but the data on violent conflicts suggest different worlds of violence.”51 Similarly, Sarkees & Singer find “the same impression of multiple parallax views” after comparing fifteen different coding manuals.52 The problem of commensurate definitions and datasets53 is as much a problem of interdisciplinary dialogue across data research, with implications for Muslim state conflict research.54


50 Id. at 53–54.


52 Sarkees et al., War Distribution Over Time, supra note 49, at 49.

53 See id. at 53 (explaining the “proliferation of data-gathering projects on armed conflict” in which every project develops “its own foci and definitions of what constitutes armed conflict” and uses “different criteria” has produced contradictory results”). There is generally confusion in the discipline with regard to the types of conflicts and the temporal zones studied. For example, some zones are more heavily studied than others (i.e., conflict in the post–World War II era), thereby leaving others “ignored or under-studied.” Id. Due to the difference in the focus for different projects, there is difficulty in comparing project findings. Id. In fact, it has often been referred to as a “frustrating exercise.” Id. See also Eberwein & Chojnacki, supra note 51, at 8 (concluding after comparing datasets that “the real world is one, but the data on violent conflicts suggest different worlds of violence”).

54 See Sarkees et al., War Distribution Over Time, supra note 49, at 50–51 (discussing that although social scientists have worked to strengthen the empirical
In this context, the universal definition of armed conflict available in international humanitarian law may help clarify differences in respective approaches to conflict across data in productive ways. Yet, as mentioned, one reason why IHL has remained opaque to empirical conflict inquiry has to do, again, with divergent disciplinary pathways and missed opportunities for interdisciplinary dialogue—in this case, the different paths taken by post-World War II IR theory and international law scholarship, including conceptions of war in political science and international law and their subfields (i.e. civil war, terrorism). Social science approaches have been increasingly applied to the law—but not vice versa—causing a disciplinary divide that has intensified with ‘new wars’ debates over inherited paradigms. 

markers of war in and even across datasets, the trends identified by Sarkees, Wayman & Singer have become more pronounced in the intervening decade, as microfoundational studies have disaggregated inquiry further; see also J. David Singer, Variables, Indicators, and Data: The Measurement Problem in Macropolitical Research, in MEASURING THE CORRELATES OF WAR 181, 181 (J. David Singer & Paul Diehl Michigan eds., 1994). But see Stathis N. Kalyvas, Promises and Pitfalls of an Emerging Research Program: The Microdynamics of Civil War, in ORDER, CONFLICT, VIOLENCE 397 (Ian Shapiro & Tarek Masoud eds., 2008) (identifying the problems with econometric studies).

55 See Sarkees et al., War Distribution Over Time, supra note 49, at 58 (noting that “the motivation was to expand the war typology to address certain types of armed conflict not previously included”).


57 See Chandra Lekha Sriram, International Law, International Relations Theory and Post-Atrocity Justice: Towards a Genuine Dialogue, 82 INT’L AFFAIRS 467, 467 (2006); see MARTIN VAN CREVELD, THE TRANSFORMATION OF WAR 192 (1991) (discussing future wars); see MARY KALDOR, NEW AND OLD WARS: ORGANIZED VIOLENCE IN A GLOBAL ERA 69 (1999) (supporting the authors position that “new wars” broadly—refers not only to Kaldor—but to research in global security studies, strategic and military theory, and national security, counterterrorism, and international law in parallel discussions in the social sciences and legal scholarship); see JOHN KISZELEY, POST-MODERN CHALLENGES FOR MODERN WARRIORS 6 (2007); see Michael N. Schmitt,
broadly understood backdrop of scholarly and empirical complexity in international security studies, voluminous empirical conflict literature with unsettled opinions about the definition of war makes perfect sense. But it is also for this reason that it is worth considering the utility of longstanding normative architecture governing armed conflict to define such conflicts—those rules are designed not only to humanize war, but to also regulate and restrain conflict behavior by all parties engaged in hostilities.

III. International Humanitarian Law and Armed Conflict Regulation

For our purposes, one of the most intriguing problems in quantitative conflict research is the effects-based, *ad hoc* method for defining war across formal analyses that neglect key theoretical assumptions and implications about war, conflict, and political violence. As our dataset turns on the very different legal definition of armed conflict based in the IHL framework, we address first, here and in the following section, the distinctive elements in the law of war standard, its different assumptions about the nature and meaning of conflict, and its inseparability from the interplay of global security politics in the international system. This discussion also seeks to raise the somewhat surprising fact that the legal concept of armed conflict under IHL—the regime ratified by every nation in the world, including all Muslim states—is strikingly unfamiliar to much empirical


58 See 1868 St. Petersburg Declaration Renouncing the Use, in Time of War, of Explosive Projectiles Under 400 Grammes Weight, in DOCUMENTS ON THE LAWS OF WAR 53 (Adam Roberts & Richard Gueff eds., 3d. ed. 2000) [hereinafter 1868 St. Petersburg Declaration] (stating the importance of fixing the “technical limits at which the necessities of war ought to yield to the requirements of humanity”).


60 See infra “MSACC Approach to IHL-Defined Armed Conflicts” (providing detailed definitions). We coded all armed conflicts as either internal (i.e. civil wars) or interstate wars, dating the war start for the first year when the violence level was coded as war, and the end when state or non-state armed forces withdrew their combat operations.
Developed largely in the nineteenth and twentieth centuries, the modern laws of war embody the *jus contra bellum* period, the prohibition of the use of inter-state force and the criminalization of aggressive war, reflected in the U.N. Charter of 1945 (among other instruments), itself an artifact of legal positivist, realist, and humanist responses to the trauma of modern "world" wars. The need for the *jus in bello* belongs to the earlier post-Westphalian period in which norms were needed to alleviate the calamities of war because going to war was regarded by States as the general rule, a freedom to wage war as both instrument of foreign policy and guarantor of sovereignty. In this respect, the laws of war were designed to balance military necessity with humanism. In fact, the effectiveness of this legal regime is predicated on the "subtle equilibrium between two diametrically opposed impulses," rules crafted to minimize human suffering without undermining military operations. This balance calculus was captured in the St. Petersburg declaration: "to fix the technical limits at which the necessities of war ought to yield to the requirements of humanity." The contemporary guardian of this branch of public international law, the International Committee of the Red Cross (ICRC), defines the modern legal framework of IHL as a set of

61 See *Commentary on the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*, Int’l Comm. of the Red Cross (ICRC) 32 (1952) (hereinafter *Commentary on the Geneva Conventions*) ("The substitution of [armed conflict] for the word 'war' was deliberate. One may argue almost endlessly about the legal definition of 'war' . . . . The expression 'armed conflict' makes such arguments less easy. Any difference arising between two States and leading to the intervention of armed forces is an armed conflict . . . [It makes no difference how long the conflict lasts, or how much slaughter takes place. The drafters of the Geneva Conventions deliberately rejected the term "war"—in favor of "armed conflict"—given the history of states refusing to declare war as part of a rationale for not applying the law to a given conflict.").


63 See id.

64 See id.

65 Id. at 16.

66 1868 St. Petersburg Declaration, supra note 58, at 53.

67 *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, Int’l Comm. of the Red Cross 1352 (Yves Sandoz et al. eds., 1987) (hereinafter *Commentary on the Additional Protocols*).
rules that seek for humanitarian reasons to limit the negative effects of armed conflict on vulnerable populations by protecting both persons not or no longer participating in hostilities (civilians, wounded, prisoners of war) and by restricting the means and methods of warfare.\textsuperscript{68} Cardinal principles that underpin and guide this law’s evolution are the principles of distinction, proportionality, and military necessity (all part of customary law), as well as the principle of humanity or the prohibition on unnecessary suffering.\textsuperscript{69}

In order to be broadly applicable, the laws of armed conflict deliberately define situations of armed conflict in the most expansive terms as “any difference arising between two States . . .

\textsuperscript{68} See generally Stéphane Jeannet, Recognition of the ICRC’s Long-standing Rule of Confidentiality: An Important Decision by the International Criminal Tribunal for the Former Yugoslavia, INT’L REV. RED CROSS 403 (2000), available at https://www.icrc.org/eng/resources/documents/misc/57j9h.htm (noting the ICRC is specifically referred to in forty articles of the Geneva Conventions and in eight articles of the Additional Protocols). The author makes the point that the “law of armed conflict,” the “laws of war,” and the “laws and customs of war” are synonymous terms designating a cluster of norms based on the Geneva and Hague Conventions and a longer tradition of customary international law stretching into values and principles from the medieval period. \textit{Id.} The more recent term “international humanitarian law,” though also used interchangeably with the other terms of art, encompasses a broader category of laws and principles beyond the traditional laws of armed conflict, including war crimes, but laws related to genocide and crimes against humanity. \textit{Id.}

\textsuperscript{69} Statute of the International Court of Justice art. 38(1)(b) (supporting the author’s point that many IHL rules now constitute international custom, rules derived from “evidence of a general [state] practice accepted as law” and based on \textit{opinio juris} (‘the belief that the practice is rendered obligatory by the existence of a law requiring it’)). Customary international law in Article 38(1)(b) is defined as “evidence of a general practice accepted as law,” established by two factors, the general practice of states and what states have accepted as law (or \textit{opinio juris sive necessitates}); see Continental Shelf, Judgment, 1969 I.C.J. 3, ¶77, 44 (Feb. 20), available at http://www.icj-cij.org/docket/index.php?sum=295\&code=cs2\&p1=3\&p2=3\&case=52\&k=cc\&p3=5 (describing “two conditions” for international customary law: “Not only must the acts concerned amount to a settled practice, but they must also be . . . carried out in such a way, as to be evidence of a belief that this practice is rendered obligatory by the existence of a rule of law requiring it. The need for such a belief, i.e., the existence of a subjective element, is implicit in the very notion of the \textit{opinio juris sive necessitates}. The States concerned must therefore feel that they are conforming to what amounts to a legal obligation. The frequency or even habitual character of the acts is not in itself enough. There are many international acts, e.g., in the field of ceremonial and protocol, which are performed almost invariably, but which are motivated only by considerations of courtesy, convenience, or tradition, and not by any sense of legal duty.”); see JEAN-MARIE HENCKAERTS \& LOUISE DOSWALD-BECK, CUSTOMARY INTERNATIONAL HUMANITARIAN LAW XXXIX (2009).
leading to the intervention of armed forces"—even "if one of the Parties denies the existence of a state of war" and no matter "how long the conflict lasts, or how much slaughter takes place." The Correlates of War (COW) or the UCDP/PRIO Armed Conflict Dataset (ACD) in which numbers of "battle-related deaths" are the standard means by which scholars determine the existence of armed conflict and war is done so in addition to political and

70 See COMMENTARY ON THE GENEVA CONVENTIONS, supra note 61, at 32; see Prosecutor v. Tadic, Case No. IT-94-1-A, Decision on the Defence Motion for Interlocutory Appeal, ¶ 70, 193 (Int'l Crim. Trib. Former Yugoslavia Oct. 2, 1995) (noting that in jurisprudence, the International Criminal Tribunal for the Former Yugoslavia (ICTY) echoed this general definition of international armed conflict in the Tadic case: "an armed conflict exists whenever there is a resort to armed force between States").


72 See generally RESORT TO ARMS, supra note 71 (developing a typology for wars based on war participants, namely as states with means of exerting their independence and playing a role in international relations: (1) interstate wars are conflicts conducted by members of the interstate system; (2) extra-systemic wars are conflicts conducted between a system member and a non-state, non-system entity; (3) intra-state or civil wars are conflicts conducted between a state and a subnational group within its borders; and (4) under the expanded typology, nonstate wars); see also Sarkees, COW Typology, supra note 33, at 5 (stating that within the COW war typology, an intra-state war must meet the same definitional requirements of all wars (i.e. sustained combat, involving organized armed forces, resulting in a minimum of 1,000 battle-related combatant fatalities within a twelve month period); see Sarkees, Codebook, supra note 71, at 1 (When Small & Singer first extended their study of war to include intra-state wars in RESORT TO ARMS, supra note 71, they established the requisite condition that for a conflict to be a war, it must involve armed forces capable of "effective resistance" on both sides. They then developed two alternative criteria for defining effective resistance: "(a) both sides had to be initially organized for violent conflict and prepared to resist the attacks of their antagonists, or (b) the weaker side, although initially unprepared, is able to inflict upon the stronger opponents at least five percent of the number of fatalities it sustains.” Effective resistance criteria were specifically utilized to differentiate wars from massacres, one-sided state killings, or general riots by unorganized individuals. Such one-sided violence is not considered the same phenomenon as war and is not included here. However, this distinction is sometimes difficult to make particularly in intra-state conflict); RESORT TO ARMS, supra note 71, at 215.
territorial determinations under IHL. The law is then "triggered" by the existence of an armed conflict when hostilities rise to the level of "armed force between States" (and other organized actors) in a threshold defined by law. Under IHL "armed conflict," the legal term for war is distinguished from other forms of political violence that remain at the level of "internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature."75

In instances of political violence that fall below the threshold of armed conflict, no special rules ("lex specialis") come into force that revise fundamental legal authorities for targeting, killing, detention without a trial, etc. Critically, IHL applies only in the event of an armed conflict and therefore only regulates conduct during hostilities. It is distinct from the legal regime enshrined in

73 See Sarkees et al., War Distribution Over Time, supra note 49, at 58 (discussing battle deaths).


76 See id. at art. 1(2) (excluding "situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts" from non-international armed conflict). This exclusion is seen as reflective of customary international law in all non-international armed conflicts, as evident in its adoption in the Statute of the International Criminal Court. See e.g., Int'l Criminal Court [ICC], Rome Statute of the International Criminal Court, art. 8.2(d), July 17, 1998, 2187 U.N.T.S. 90, available at http://www.icc-cpi.int/iccdocs/PIDS/publications/RomeStatutEng.pdf [hereinafter Rome Statute] (noting that Article 8 specifically excludes "situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature," from the ambit of non-international armed conflict). Note that this exclusion has been broadly accepted as reflective of customary international law in all non-international armed conflicts and that when the armed conflict ends, lex generalis—peacetime rules and fundamental human rights—return.

Article 2(4) of the U.N. Charter governing the resort to force (\textit{jus ad bellum}).\textsuperscript{78} Thus, insofar as the existence of an armed conflict is the predicate for triggering this law, the concept of armed conflict receives a great deal of analytical weight under this legal regime because it both sets the regime in motion and dictates the parameters for conflict actors’ behavior under its strictures.\textsuperscript{79}

While the term “armed conflict” remains undefined in treaty law, legal scholars have long pointed out that determining the existence of an international armed conflict (IAC) war between states, is purposely clear and uncontroversial under IHL, for two deliberate reasons—one political, the other empirical.\textsuperscript{80} As the ICRC’s Commentary on Common Article 2 reveals, the term “armed conflict” was substituted for “war” by Convention drafters to prevent states from downplaying their hostile acts to exempt them from obeying the rules.\textsuperscript{81} Moreover, the reason for depoliticizing war, for limiting a belligerent state’s ability to interpret the meaning of their hostile acts as a condition of their behavior in war, was obvious: “The drafters deliberately went beyond the legalistic term ‘war’ in favor of the broader principle of armed conflict” that “was intended to be broadly defined in order to extend the reach of the Conventions to as many conflicts as possible.”\textsuperscript{82} As the Commentary makes clear, “[a]ny difference


\textsuperscript{79} See id. at 967.

\textsuperscript{80} See COMMENTARY ON THE GENEVA CONVENTIONS, supra note 61, at 21 (noting that Article 2 armed conflicts encompass any difference between states that lead to military intervention, even if parties deny the existence of a state of war, and, again, the duration of the conflict and the number of deaths are irrelevant).

\textsuperscript{81} Id. at 55; see Tokyo Judgment, 490, 48/414, 49/594 (Int’l Mil. Trib. Far East Nov. 4, 1948) (supporting the author’s position that States would mislabel their hostile acts to avoid the humanitarian obligations that formal legal requirements of war would bring, i.e., treating captured forces as prisoners of war). Successive Japanese governments, for instance, identified campaigns in China and Manchuria as police “incidents” which did not trigger the laws of war. \textit{Id.} “From the outbreak of the Mukden Incident till the end of the war. [. . . ] Japanese Governments refused to acknowledge that the hostilities in China constituted a war” and with this “excuse,” the “military authorities persistently asserted that the rules of war did not apply in the conduct of the hostilities.” \textit{Id.}

\textsuperscript{82} \textsc{Richard P. DiMeglio} et al., \textsc{Judge Advocate General’s Legal Ctr. & Sch.}, \textsc{U.S. Army}, \textsc{The Laws of Armed Conflict Deskbook} 24 (William J. Johnson & Andrew D. Gillman eds., 2012), available at http://www.loc.gov/rr/frd
arising between two States and leading to the intervention of armed forces is an armed conflict within the meaning of Article 2, even if one of the Parties denies the existence of a state of war.\textsuperscript{83} Under IHL, then, armed conflict is broadly defined to capture whenever there is a resort to armed force between States, evident in their mobilized armed forces.\textsuperscript{84}

Second, for these same reasons—given the special license to use lethal force granted to states’ armed forces under the distinctive circumstances of war\textsuperscript{85}—the threshold of armed conflict is not only intentionally set low, but determined by an empirical or \textit{de facto} standard in the existence of armed hostilities.\textsuperscript{86} That is, modern IHL comes into force—not, as mentioned, on the basis of a requisite formal declaration of war, by virtue of how belligerents perceive or characterize hostilities, or even by numbers of persons killed—but on the basis of the facts of a situation, the \textit{de facto} existence of armed hostilities, indicated by active involvement of states’ armed forces in hostile behavior.\textsuperscript{87} This is to say that


\textsuperscript{85} See Rona, supra note 74, at 57–58 (noting that such rules activated in the legally delimited space of war enable “elevat[ing] the essence of war—killing and detaining people without trial—into a right” for “persons designated as ‘privileged combatants’ such as soldiers in an army.” Rona further describes IHL as a compromise: the “aims of humanitarian law are humanitarian, namely, to minimize unnecessary suffering by regulating the conduct of hostilities and the treatment of persons in the power of the enemy.” The author further comments that in return for such protections, IHL legitimates “the essence of war,” the combatant privilege to use deadly force against adversaries. In no other domestic or international legal context may government agents resort to deadly force as a measure of first resort—except in an armed conflict when individuals are determined to be enemy belligerents (or civilians taking a direct part in hostilities) and, hence, lawful targets).

\textsuperscript{86} See id. at 59 (noting that “the insurgent civil authority exercises de facto authority over persons within determinate territory”).

\textsuperscript{87} See DiMEGLIO ET AL., \textit{ supra} note 82, at 24 (“[T]his is a true \textit{de facto} standard” in
determining when states are engaged in hostilities (even if they insist they are not in a state of war) is an objective, empirical determination. Not only does this de facto armed conflict standard “maximize the applicability of humanitarian protections for [war] victims,” it has the benefit of limiting the political maneuvering that often suffuses the domain of warfare insofar as war remains in Clausewitz’s famous formulation a “policy” choice. Put another way, in disputes between sovereign states, any hostilities that involve the intervention of states’ armed forces, no matter how brief in duration or limited in intensity, trigger the application of this law. Common Article 2 discusses international armed conflicts between two or more states, including occupation situations, are by this standard easily discernible for purposes of inclusion in our dataset.

the sense that the “subjective intent of the belligerents is irrelevant. The drafters deliberately went beyond the legalistic term ‘war’ in favor of the broader principle of armed conflict” and, according to the Commentary on the Geneva Conventions, “this article was intended to be broadly defined in order to extend the reach of the Conventions to as many conflicts as possible.”).


90 VON CLAUSEWITZ, supra note 1 (“We know, certainly, that War is only called forth through the political intercourse of Governments and Nations; but in general it is supposed that such intercourse is broken off by War, and that a totally different state of things ensures, subject to no laws but its own. We maintain, on the contrary, that War is a continuation of political intercourse, with a mixture of other means.”).

91 See Sylvain Vité, Typology of Armed Conflicts in International Humanitarian Law: Legal Concepts and Actual Situations, 873 INT’L REV. RED CROSS 69, 73 (2009) (explaining that “the Protocol stipulates that the situations targeted by Article 2 common to the 1949 Geneva Conventions include ‘armed conflicts in which peoples are fighting,’ thereby supporting the author’s position that most experts presume that any fighting between armed forces of states is covered by the Geneva Conventions).

92 See Blank & Corn, supra note 89, at 700-01 (“During war, armed forces employ lethal force against enemy personnel and objects as a first resort. In contrast, the peacetime authority to use force — regulated by international human rights principles — restricts lethal force to a measure of last resort permitted only based on individualized threat determinations.”). This broad definition of armed conflict is a sober reflection of the essence of warfare, namely, the fact that war enables states to use lethal force lawfully as a measure of first resort against adversaries—not as a measure of last resort
But just as the existence of an armed conflict triggers the application of IHL to govern the status of persons and the behavior (the rights and obligations) of parties to the conflict, the type of conflict—international or non-international—sets parameters on the extent of applicable law.\(^9\) While this distinction has been both contested and eroding post-9/11, the Geneva Conventions traditionally recognize two types of conflict: international (state-versus-state) conflict in which the full corpus of the law comes into force; and non-international (internal, civil wars, state versus non-states) conflict, understood as “protracted armed hostilities between a state and a non-state armed group or groups,” subject to the more limited Common Article 3 regime and customary international law.\(^9\) Determining which conflicts meet the definition of non-international, armed conflict under IHL has been more difficult.\(^9\)

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\(^9\) Int’l Comm. of the Red Cross [ICRC], *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, 31\(^9\) Int’l Conf. of the Red Cross & Red Crescent 3 (2011) [hereinafter ICRC, *Challenges of Contemporary Armed Conflicts*] (stating “the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them” and “shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance”). But see ICRC, *Geneva Convention Relative to the treatment of Prisoners of War* 32 (1949), available at https://www.icrc.org/applic/ihl/ihl.nsf/1a13044f3bb5b8ec12563fb0066f226/466097d7a301f8e4c12563cd00424e2b (setting forth minimum provisions “in the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties’); see EMILY CRAWFORD, *UNEQUAL BEFORE THE LAW: THE CASE FOR THE ELIMINATION OF THE DISTINCTION BETWEEN INTERNATIONAL AND NON-INTERNATIONAL ARME D CONFLICTS*, Sydney Law School Research Paper No. 11/28 1, 15, 36 (2007); see James G. Stewart, *Towards a Single Definition of Armed Conflict in International Humanitarian Law: A Critique of Internationalized Armed Conflict*, 850 INT’L REV. RED CROSS 313, 316, 339 (2003); see Eric Talbot Jensen, *Applying a Sovereign Agency Theory of the Law of Armed Conflict*, 12 CHI. J. INT’L L. 685, 689 (2012).

\(^9\) See MICHAEL SCHMITT, *ESSAYS ON LAW AND WAR AT THE FAULT LINES* 524-25 (TMC Asser, The Hague, Netherlands, 2012) (explaining the vast legal scholarship in the last two decades by exploring the challenges in applying the traditional laws of war to military operations directed against non-state actors (particularly, extraterritorially) and terrorism, more, specifically, is vast); see Geoffrey Corn & Eric Jensen, *Untying the
In contrast to Common Article 2, Common Article 3 sets forth minimum provisions applicable "in the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties,"\(^9\text{6}\) such as humane treatment for noncombatants and those who are *hors de combat*, among other requirements.\(^9\text{7}\) These reduced protections have arisen historically from states' sovereignty concerns and their views that rebellions and civil wars were internal affairs, for which governments had little patience for externally-imposed rules.\(^9\text{8}\) In international law more generally, sovereignty is the legal barrier that normally protects states "from outside interference in its internal affairs," so that "whenever international law operates to regulate the conduct of a State, it must (first) pierce the shield of sovereignty."\(^9\text{9}\) Thus, the need for the triggering conditions identified in Common Articles 2 and 3, and to a lesser extent, Article I, Protocol II.\(^1\text{0}\text{0}\)

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\(^9\text{6}\) See ICRC, *Challenges of Contemporary Armed Conflicts*, supra note 94, at 3 (noting the territorial language of CA 3 has given scholars pause, but insofar as the four Geneva Conventions are universally ratified, the requirement that the conflict must occur "in the territory of one of the High Contracting Parties" has lost its relevance in practice as "any armed conflict between governmental armed forces and armed groups or between such groups cannot but take place on the territory of one of the Parties to the Convention").

\(^9\text{7}\) See Andreas Paulus & Mindia Vashakmadze, *Asymmetrical War and the Notion of Armed Conflict – A Tentative Conceptualization*, 91 INT'L REV. RED CROSS 95, 112 (2009).

\(^9\text{8}\) See *COMMENTARY ON THE GENEVA CONVENTION RELATIVE TO THE PROTECTION OF CIVILIAN PERSONS IN TIME OF WAR*, ICRC 44 (Oscar M. Uhler & Henri Coursier eds., 1958) (discussing historical motives for integrating Common Article 3 into the revised Geneva Conventions of 1949, imposing limited but revolutionary standards of conduct for internal conflicts and enabling unprecedented intrusion into state sovereignty). Prior to 1949, international humanitarian law contained no positive law applicable to internal conflicts, framed within the zone of state sovereignty, such that minimal authority existed for the applicability of international customary regulatory norms. *Id.; see also EVE LA HAYE, WAR CRIMES IN INTERNAL ARMED CONFLICTS 33-43 (2008)* (discussing "[t]he laws of war applicable in internal armed conflicts").

\(^9\text{9}\) See DiMEGLIO ET AL, supra note 82, at 23.

\(^1\text{0}\text{0}\) See *id.* (noting that once the "requirements for piercing the shield of sovereignty have been satisfied," IHL "intrudes upon the sovereignty of the regulated State by limiting the means and methods of its application of violence in combat, and by imposing obligations to respect and protect certain persons and places." Further, the
Now, amidst ongoing debate over the predominance of non-international wars after World War II and the intensity of these and related conflict types in the post 9/11 era, NIACs are generally understood as armed conflicts between state forces and non-state armed groups (or between such non-state groups only) without the original territorial limit outlined in Common Article 3. In determining which conflicts rise to the level of a NIAC and to differentiate Common Article 3 conflicts from less serious forms of political or social violence (i.e., internal disturbances, riots, violent protests, acts of banditry), the jurisprudential standard has been that the "armed conflict must achieve a certain threshold of confrontation." Two guidelines are set out in case law: (1) hostilities must rise to a minimum level of intensity; and (2) non-state adversaries must exhibit a minimum level of organization. Thus, we use jurisprudential standards to determine NIAC threshold requirements, including judgments by the International Criminal Tribunal for the former Yugoslavia (ICTY) that established the NIAC thresholds and tests. We

"extent of this intrusion" depends directly on the type of conflict, but includes restrictions on targeting, requirements for the treatment of detainees, and the imposition of criminal liability for failure to abide by the law.


102 Id. (noting that less serious forms of violence include internal disturbances and tensions, such as "riots or acts of banditry").

103 Id. at 3.

104 See DIMEGLIO ET AL., supra note 82, at 26.

105 See id. at 26-27 (asking such questions as: "i. Does the group have an organized military force?; ii. Are members of the group subject to some authority?; iii. Does the group control some territory?; iv. Does the group demonstrate respect for the LOAC? This is more often accepted to mean that the group must not demonstrate an unwillingness to abide by the LOAC v. Does the government respond to the group with regular armed forces?"). But see Prosecutor v. Tadic, Case No. IT-94-1-T, Opinion and Judgment, ¶ 562 at 193 (Int'l Crim. Trib. Former Yugoslavia May 7, 1997), available at http://www.icty.org/x/cases/tadic/tjug/en/tad-tsj70507JT2-e.pdf (noting two criterias to a NIAC, namely, the intensity of the conflict and the organization of the parties to the conflict).

106 See DIMEGLIO ET AL., supra note 82, at 178.

107 See Prosecutor v. Boskoski, Case No. IT-04-82-T, Judgment, ¶¶ 199-203 (Int'l Crim. Trib. Former Yugoslavia July 10, 2008) (supporting the authors statement that in expanding upon the Tadic case requirements that a NIAC involves organized non-state armed groups engaged in protracted hostilities, the ICTY in this and other judgments put forth "tests" based on several factors for whether a non-state group, which must be
also take into account that NIACs are increasingly treated by law-abiding states, the international community, jurists, and legal scholars with the same rules covering IACs.\textsuperscript{108} Thus, while IHL traditionally operates on a strict division between the rules applicable in international armed conflict and those not of an international character, this bifurcation is increasingly eroding under "new wars."\textsuperscript{109} These "new wars" are characterized notably by the sophistication and organization of transnational non-state actors in initiating armed conflicts across multiple regions, and in the intervention of foreign parties, which legally transforms NIACs into IACs.\textsuperscript{110}

In contrast to extant definitions of armed conflict in COW and ACD datasets, which emphasize political contention (i.e., what we would call belligerent parties or parties to a conflict) and battle-death thresholds,\textsuperscript{111} we adopt IHL standards for defining armed

\begin{itemize}

\item Identifiable as such, is sufficiently organized and disciplined, possesses a command structure, can perform operations in an organized manner, utilize military logistics, and has the ability to speak with one voice; \textit{see} \textit{Commentary on the Additional Protocols, supra note 67, at 1351-52} (supporting that since the first ruling in Tadic, each judgment of the ICTY has taken this definition as a starting point. Moreover, the more restrictive definition of NIAC in AP II, which applies to armed conflicts which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized "armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol").

\item \textit{See Prosecutor v. Tadic, Case No. IT-94-1-T, Opinion and Judgment, ¶ 570 (Int'l Crim. Trib. Former Yugoslavia May 7, 1997), available at http://www.icty.org/x/cases/tadic/tjug/en/tad-tsj70507JT2-e.pdf} (stating that in assessing the minimal threshold of intensity and duration of the conflict, the ICTY likewise included such factors as the seriousness and spread of attacks, numbers of civilians displaced, the weapons used, the extent of destruction and number of casualties, and, for isolated incidents, the high degree of intensity and high level of organization for nonstate armed groups).

\item \textit{See Mary Kaldor, \textit{In Defence of New}, 2 INT'L J. STABILITY SECURITY & DEV. 1, 1 (2013)} (stating that "old wars were fought by the regular armed forces of states" and that "[n]ew wars are fought by varying combinations of networks of state and non-state actors").

\item \textit{See id. at 2-4} (explaining the logic and characterization of "new wars").

\item \textit{Sarkees, \textit{War Distribution Over Time, supra note 49, at 1}} (supporting the author's claim that both definitions of war in the Correlates of War (COW) and the Armed Conflict (ACD) datasets turn on battle-related fatalities and organized armed forces using violence). COW defines war as "sustained combat involving organized armed forces resulting in a minimum of 1,000 battle-related fatalities within a twelve month period" and includes inter-state, extra-state, intra-state, and non-state wars). \textit{Id.}

\end{itemize}
conflicts. The most obvious virtue of this definition of war is its universal and binding nature, the fact that it is both understood and ratified by all of the world's nations and, as such, functions as a consistent norm by any definition of that term, even while states express different interpretations of the black letter law.\textsuperscript{112} Equally helpful, insofar as the \textit{jus in bello} comprise not only positive law but customary rules, many with cross-cultural pedigrees.\textsuperscript{113} These norms are culturally "familiar" and historically durable.\textsuperscript{114} In many cases, the durability of the law of armed conflict is due to the fact that it has been "hard wired" into highly disparate cultural, religious, and national traditions for centuries and, as such, has served as a cultural as well as an international legal referent for restraining excessive behavior during conflict.\textsuperscript{115}

IHL rules comprise a veritable international infrastructure not only of binding laws and restraining norms, but of authoritative legal institutions, organizations, and practitioners that play a key role in designating armed conflicts under IHL, as well as state and other actors' compliance with the law.\textsuperscript{116} That is, IHL norms are not only a recognized international vocabulary of concepts that pervade domestic (i.e., national security law) and international law, they involve dedicated international organizations and practitioners who identify the status of armed conflicts, conflict actors and their behavior, and victims implicated in conflict, even when hostilities are rife.\textsuperscript{117} Notable organizations include the statutorily impartial ICRC, which makes regular conflict and compliance determinations during hostilities and is mandated under international law to assist and protect victims of armed


\textsuperscript{114} See id. at 76 (stating that "one has to recall ... cultural traditions").


\textsuperscript{116} See James Cockayne, \textit{Islam and International Humanitarian Law: From a Clash to a Conversation Between Civilizations}, \textit{847 INTER. Rev. RED CROSS} 597, 622 (2002) (stating that there is "substantial congruence between Islamic and IHL norms of conduct in armed conflict on such diverse issues").

conflict and to safeguard IHL.\textsuperscript{118}

Though COW and ACD data are certainly useful to analyze correlates of war, our IHL-based definition of armed conflict offers an alternative, relatively consistent, practical standard based in universal international norms for defining and identifying armed conflicts—even when there is not international consensus on defining a specific conflict designation.\textsuperscript{119} Many political scientists, as well as legal scholars, are skeptical about the influence of international law in international affairs, arguing that states comply with the law only when it serves their interests.\textsuperscript{120} This view also applies to Muslim states: Carle, for instance, finds reluctance by Muslim states historically to implement international human rights standards, for instance, and there is broad disagreement among Muslim leaders about the compatibility between international and Islamic law, despite a rich and often integrated history.\textsuperscript{121} Moreover, some studies have found that Muslim states are less likely to comply with international law in general.\textsuperscript{122} Yet, more recent studies indicate that armed conflict and noncompliance by Muslim states may be complicated by the analytical approaches used and explained by other factors such as economic development,\textsuperscript{123} oil wealth,\textsuperscript{124} and domestic structure.\textsuperscript{125}


\textsuperscript{119} See, e.g., Laurie R. Blank & Geoffrey Corn, Syria Must be Held to the Law of War, CNN (Apr. 4, 2012), www.cnn.com/2012/04/04/opinion/blank-corn-syria-war.


\textsuperscript{123} Mirjam E. Sørli, Nils Petter Gleditsch & Håvard Strand, Why Is There So Much Conflict in the Middle East?, 49 J. Conflict Resol. 141, 142 (2005).

\textsuperscript{124} Michael L. Ross, Oil, Islam, and Women, 102 AM. POL. SCI. REV. 107, 107-08 (2008).

\textsuperscript{125} Neilan S. Chaturvedi & Orlando Montoya, Democracy, Oil, or Religion? Expanding Women’s Rights in the Muslim World, 63 POL. & REL. 596, 597 (2013).
These studies, taken together, raise the question of variation among Muslim states.

Our results from the MSACC dataset echo the variation thesis across states—and show temporal and geographical variation, as well—in both Muslim state conflict and compliance behavior. Moreover, we find that conflict behavior varies by conflict type: interstate conflicts; interstate conflicts between Muslim states; and intrastate conflicts in which Muslim states engage internal or external non-state conflict actors. Likewise, this conflict behavior implicates certain regions more than others; and certain countries contribute to regional conflicts more than others. Notably, our dataset also enables scholars to revisit the role of religion, particularly at the state level, in armed conflict and compliance patterns. While every religion has experienced large-scale violence, including interstate and intrastate war, research in this area has often been associated with groups and subnational organizations. Andrej Tusicisny, for instance, finds that Islamic groups are becoming increasingly involved in inter-civilizational conflicts in the post-Cold War era, though recent research also suggests that violence is not likely among states with different cultural identities, but more common among states with similar cultural ties (i.e., Islam vs. Islam). Recent analysis show that predominantly Muslim societies are, indeed, more likely to experience armed conflicts. Simply put, Muslim states may be conflict-prone for multiple reasons. In any case, these and other conflict dynamics in all of their variation are difficult to understand, without examining conflict and compliance behavior systematically across cases.

Thus, while IHL certainly adapts to changing circumstances, its universal definition of armed conflict and its capacity to encapsulate longstanding, cross-cultural, and ubiquitous sets of

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126 Daniel Philpott, Explaining the Political Ambivalence of Religion, 3 AM. POL.
127 See id. at 505.
128 Tusicisny, supra note 4, at 485-87.
129 Erik A. Gartzke & Kristian Skrede Gleditsch, Identity and Conflict: Ties that
130 Monica Duffy Toft, Getting Religion? The Puzzling Case of Islam and Civil
War, 31 INT’L SEC. 97, 97 (2007) (noting that one or both parties were Muslim in 34 out
of the 42 (81%) religious civil wars between 1940 and 2000).
131 See id.
rules and restraints for governing violent conflict over time make it useful for establishing a baseline approach to armed conflict and compliance behavior, particularly in the complex circumstances of modern conflict among Muslim states.132

IV. Methodological & Theoretical Issues in Conflict Classification

As mentioned, we adopt a universal IHL standard for defining armed conflict for purposes of general applicability and consistency, but also for precision—both in methodological and theoretical terms, which we describe in more detail here. In addition to explaining our approach for including armed conflicts in our dataset, we address two related issues: the general contention in and beyond quantitative conflict research in defining war, particularly in the post-9/11 moment, in ways that have hindered interdisciplinary research; and the subtle theoretical implications that often underpin certain methodological assumptions in conflict inquiry, which are too often neglected in discussion.

We generally make two overarching moves in entering a data point into our dataset. First, as the IHL definition of armed conflict does not require researchers to accurately uncover or count battle-related deaths to determine a given conflict’s inclusion in the database, we rely on the IHL standard to determine the de facto existence of armed hostilities between states and/or non-state actors.133 Such a determination is made by researching a conflict’s history, analytical description, and documentation by authoritative, nonpartisan, and credible sources among relevant international humanitarian organizations (i.e., ICRC, U.N.-initiated independent international commissions of inquiry, peace treaties and other international conventions).134 We, thus, rely upon historical, international, and national legal reports and sources produced by various organizations and experts to document a given armed conflict. This includes opinions by the ICRC, mandated by the international community to monitor conflict and compliance with the laws of war, as well as

133 See ICRC, Term “Armed Conflict” in IHL, supra note 83.
134 Schlesinger, supra note 117.
international court decisions, United Nations resolutions, commissions, reports, authoritative human rights “on the ground” accounts, direct reporting by credible news organizations and human rights advocacy groups, and scholarship in international law and international relations.

Second, after we determine whether a conflict is an armed conflict and subsequently an IAC and/or NIAC to be included in the dataset, we then examine each conflict for evidence of compliance or noncompliance with IHL, taking into account when belligerent states became parties to relevant Conventions. Violations were found when reliable reports (as described above) indicate specific actions on the part of the state or organized armed groups in direct opposition to core IHL standards. For instance, Yemen’s use of chemical weapons targeting civilians in the war with Egypt in 1962-1970 clearly violates both Article 50 of the Geneva Conventions, prohibiting the intentional killing of protected persons and Additional Protocol I Article 52(1), prohibiting the use of civilians as objects of attacks or reprisals.135 Likewise, as the U.S. Supreme Court held in Hamdan v. Rumsfeld (2006), the procedures the “government has decreed will govern Hamdan’s trial by commission violate these laws” i.e., Common Article 3 of the Geneva Conventions, not to mention the Uniform Code of Military Justice (UCMJ).136 Noncompliance is, thus, found per state when any party to a conflict violates the core of IHL, that is, the revised four Geneva Conventions of the 1949 treaty obligations for that state.137 Reports of specific violations are preferred over general allegations; however, general allegations, if reasonably substantial, were also noted and paired with alleging sources. Violations were obviously not found when the state was not party to the IHL instruments at the time of conflict. Specific violations were also highlighted and recorded in our MSACC dataset, and reliable sources (consistent with those

135 Int’l Comm. of the Red Cross [ICRC], Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field art. 50 (Aug. 12, 1949); Int’l Comm. of the Red Cross [ICRC], Geneva Convention (I) AP I Relating to the Protection of Victims of International Armed Conflicts art. 52(1) (June 8, 1977).


already mentioned) in which violations were documented were also cited.

Despite the helpful framework of authoritative sources, however, the process of determining an armed conflict under IHL is at times contentious, contradictory, and even confusing; this is particularly true in non-international conflict cases, but can also occur in interstate armed conflicts that change phase (from NIAC to IAC) during ongoing fighting (e.g. Libya in March 2011). Classic contentious examples include the United States post 9/11 wars in Afghanistan (2001) and Iraq (2003), which bewilder even the U.S. Supreme Court for a period, not to mention ongoing legal and policy debate over the entire “global war on terrorism” apparatus. To take recent cases of armed conflict within the ambit of our dataset in Libya (beginning February 2011) and Syria (beginning March 2011), respective U.N. Commissions of Inquiry did not designate Libya as an armed conflict under IHL until June 2012 or Syria until July of 2012 (as opposition forces were deemed insufficiently organized until this period). After much


criticism by legal scholars and human rights advocates, the ICRC on July 15, 2012 finally assessed the Syrian conflict as a “non-international armed conflict,” applying IHL under the Geneva Conventions.\(^{141}\) There were some attempts to argue that Syrian forces had in the intervening period become sufficiently organized for the NIAC designation.\(^{142}\) Many scholars, however, identified the U.N. based hesitancy on Syria as arising from overly formalistic or legalistic uses of the ICJ “elements test,” as well as strong states’ direct interests in influencing U.N. decision making, and even an overabundance of caution on the part of the U.N. Human Rights Council (UNHRC), in its dubious oversight of IHL.\(^{143}\) These recent examples indicate the need to carefully include multiple, authoritative, and independent sources in making armed conflict determinations. In keeping with the neutral, humanitarian purpose of the IHL de facto armed conflict standard and for purposes of rigorous data collection, we have tried to strip out all state or organizational interests from conflict status determination if and when that occurs.

This methodological issue, however, signals potential problems of conflict classification that scholars must recognize. Scholars must make sure to assess and interpret the full range of available materials on a given conflict and, ultimately, defer to the facts on the ground as they become available. In the case of current or ongoing wars, such facts may be difficult to divine, given the limits of direct information, and the expulsion or departure of humanitarian groups, U.N. agencies, and/or journalists during violent or politicized hostilities—though

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\(^{141}\) See Eric C. Sigmund, *ICRC Confirms International Humanitarian Law Applies to Conflict in Syria*, AM. RED CROSS BLOG (July 15, 2012), http://redcrosschat.org/2012/07/15/icrc-confirms-international-humanitarian-law-applies-to-conflict-in-syria/ (announcing the ICRC’s assessment of Syria as a NIAC on July 15, 2012). In the Syrian example, pessimistic views of the limits of international law in the face of strong states’ interests are on strong display, as are the role of intergovernmental organizations at work in the course of characterizing armed conflicts.


reputable human rights analysts often persevere during intense danger often at great personal risk. In citizen journalism and social media venues have, likewise, expanded coverage of hostilities in ways that is playing an increasing role in conflict characterization. Thus, during the “fog of war” the de facto standard, not to mention a reliance on detailed accounts of the fighting, help to keep analytical assessments relatively honest and accurate—even when the results run against the grain of powerful actors’ preferences or the collective consciousness of the international community. In this respect, we take the broadest range of expert opinion and direct reporting into account to determine difficult, politicized, or close call cases of armed conflict in order to abide by the IHL de facto standard. We, thus, coded Libya as a NIAC in February 2011, for instance, when state military forces used lethal force to intervene in the conflict, which eventually became an IAC later that same year (with Security Council resolution 1973 and the intervention of other state parties); and we coded Syria as a NIAC in March 2011, again, when state and non-state forces showed unmistakable signs of organized intervention with lethal force and when hostilities achieved obvious intensity by evidence of large scale government force mobilization across the country and consistent, indiscriminate shelling of civilians and Free Syrian Army combatants.

A. Differences between MSACC and Other Datasets: Theoretical Considerations

It is also critical to address the substantive, theoretical issues that often hover on the margins of methodological considerations in formal conflict inquiry. This is to say, there has been discussion of the logistical limits of battle-death thresholds without, perhaps, equal conceptual discussion of the implicit ad hoc

144 Schlesinger, supra note 117.


146 Id.


theories of conflict embedded in such criterion and practices.\textsuperscript{149} Even within the confines of defining war as first and foremost an act of violence,\textsuperscript{150} rather than, for instance, an act of politics that uses organized violence—there are other measures beyond battle deaths that may better indicate war: namely, the capacity and willingness of conflicting parties to mobilize state and/or non-state armed forces.\textsuperscript{151} Moreover, sustained combat and combat-related deaths, while important, may not amount in every case to the most salient indicator of armed conflict—state forces amassing and crossing borders, civilian displacement and numbers of refugees, even the general immiseration of internal populations may be equally important indicators of war.\textsuperscript{152}

Accordingly, simply adding other specifying factors (i.e. sustained combat, opposing forces) does not fully reckon with the question of whether 25 or 1,000 battlefield deaths during acts of political violence on its own merits the descriptors "armed conflict" or "war."\textsuperscript{153}

By contrast, we preserve a sense of the qualitative difference of war captured in legal norms and, further, approach that

\textsuperscript{149} The COW project defines war as hinging upon two primary criteria: (1) threshold of battle-related fatalities of troops in combat, namely, 1,000 battle-related deaths within a 12 month period as a "level of hostilities" that differentiates war from other types of conflict; and (2) the status of war participants in which wars must "have participants on both sides that had organizations able to conduct combat." See MEREDITH REID SARKEES, THE COW TYPOLGY OF WAR: DEFINING AND CATEGORIZING WARS (VERSION 4 OF THE DATA) (2010).

\textsuperscript{150} Relatedly, the ACD Dataset defines "armed conflict," albeit with a lower threshold of battle-deaths, as "a contested incompatibility which concerns government and/or territory where the use of armed force between two parties, of which at least one is the government of a state, results in at least 25 battle-related deaths" per year and per incompatibility. Nils Gleditsch et al., UCDP/PRIO Armed Conflict Dataset v.4-2012, 1946-2011, UPSALA UNIVERSITET (2013), http://www.pcr.uu.se/research/ucdp/datasets/ucdp_prio_armed_conflict_dataset/ [hereinafter ACD dataset]; see also Definitions, UPSala UNIVERSITET, www.pcr.uu.se/research/ucdp/definitions/ (last visited Nov. 11, 2014).


\textsuperscript{153} Id.; Ann M. Simmons, Ukranian Refugees on Edge as They Flood into Russia, L.A. TIMES (Sept. 12, 2014), http://www.latimes.com/world/europe/la-fg-ukraine-refugees-20140913-story.html#page=1.

\textsuperscript{153} See, e.g., Andreas Paulus & Mindia Vashakmadze, Asymmetrical War and the Notion of Armed Conflict—A Tentative Conceptualization, 873 INT'L. REV. RED CROSS 95, 103-08 (2009).
difference systemically consistent with the aim of international law itself: namely, to understand war as a systemic threat to collective peace and security. In the MSACC dataset under the IHL definition of armed conflict, for instance, many ACD armed conflict data points (i.e., incompatibilities that record at least 25 deaths per year) would not count as armed conflicts, as these incidents would be instead defined as examples of domestic strife, riots and/or protests that may include 25 violence-related deaths, but would not meet the fighting intensity and force organization tests required of NIACs. For example, ACD records as an armed conflict a period of religious strife in Nigeria in 2004, where there was cyclical fighting between Christian and Muslim groups at religious sites, resulting in several hundred deaths and sparking a Presidential declaration of emergency and a follow-on peace process. This conflict, because it did not indicate organized forces or intensity in fighting, was not defined as a NIAC in the MSACC dataset. For the same reason, the Green Revolution in Iran in 2009-2010 is likewise not found in the MSACC, but included in ACD data. There, crowds across the country mobilized in protest against what was believed to be President Mahmoud Ahmadinejad’s rigged reelection, with estimated deaths of over 18 protestors (with over 1,000 arrested). The ACD also designates the Syrian coup d’état of 1966 as an internal conflict with 25 (or more) deaths on February 23, 1966. We found dozens of sources describing the events associated with the coup as bloody, with several sources calling it the “bloodiest” coup in Syria since 1949.

Further, because we do not typify wars beyond their determination as an IAC or NIAC, we do not face some of the elaborate or even counterintuitive classification schema problems as to whether a given armed conflict is, for instance, extra-

157 Id.
systemic or intrastate.\textsuperscript{159} By our criteria, COW categories of "extra-systemic" wars and "intrastate" wars would simply be categorized as NIACs.\textsuperscript{160} Moreover, the nature of this seemingly simple categorical distinction matters in ways that have theoretical—and not only empirical—implications.\textsuperscript{161} For instance, COW categorizes the case of the U.S. armed intervention in the Dominican Republic in 1965, a war in which the U.S. military placed 42,000 Marines on the ground, as an "intra-state" conflict (#766), defined as "wars that predominantly take place within the recognized territory of a state."\textsuperscript{162} While this event does

\textsuperscript{159} Gleditsch, Armed Conflict 1946-2001, supra note 34, at 619 (explaining international wars are classified as either "inter-state," those in which a territorial state or member of the interstate system is engaged in a war with another system member, and "extra-systemic" wars, those in which an interstate system member is engaged in a war with a political entity which is not a system member); UPPSALA UNIVERSITET, supra note 149 (defining civil wars as any armed conflict involving: (1) military action internal to the metropole of the state; (2) the active participation of the national government; (3) effective resistance by both sides; and (4) a total of at least 1,000 battle-deaths each year of the conflict, but it is important to note that extra-systemic wars can resemble civil wars insofar as they can occur internally); see THE WAGES OF WAR, supra note 34 (defining further the two types of international war); see also RESORT TO ARMS supra note 71 (explaining Small and Singer’s updated data, which also includes civil war data).


\textsuperscript{161} See generally infra Table 2.

\textsuperscript{162} MEREDITH REID SARKEES, CODEBOOK FOR THE INTRA-STATE WARS v. 4.0., DEFINITIONS AND VARIABLES 2 (2010) (noting that in addition to the "effective resistance" criteria within the COW typology, an intra-state war must meet all the same definitional requirements of wars). Moreover, the expanded COW typology of intra-state wars is subdivided into three types, based upon what COW calls "combatant status" (i.e., party to the conflict status): civil wars involve the government of the state against a non-state entity; regional internal wars involve the government of a regional subunit against a non-state entity; and inter-communal wars involve combat with two or more non-state entities within the state. Id. Civil wars have then been subdivided further into two types: those for control of the central government, and those involving disputes over local issues. See THE WAGES OF WAR, supra note 34, at 215 (defining the central government as forces in de facto control at the start of the war). Control of the nation's institutions need not necessarily include control of the armed forces, since in a civil war the armed forces may actually be fighting against the government. Id. In such cases the government must rely on civilian combatants or other branches of the civilian or military infrastructure that remain loyal. Id. Consequently, Small and Singer also included in the general category of "the government," or the side of the national government, all those—from national military forces to local police, and citizens—who enter the conflict in the name of that government. See id. The non-state participants in intra-state wars can be a variety of types of actors, including: regional geopolitical units (GPUs), and non-
not appear in our Muslim-state focused dataset, under our legal
definition of war, this is clearly a Common Article 2 IAC (i.e.
interstate war) and, in this case, a clear-cut occupation situation,
one that incidentally involved the rapid deployment of thousands
of highly-trained specialized forces in the midst of domestic
political instability in the context of an underdeveloped Island
nation matched against a powerful, foreign aggressor.\textsuperscript{163} It does
not matter that Dominican Republic state forces—all 4,000 of
them—largely and wisely chose not to fight back which, on the
COW model’s criteria of “active resistance,” prompts its exclusion
as an interstate war.\textsuperscript{164} Certainly, the reticence of the Dominican
Republic’s military to resist overwhelming force does not make
this incident any less an occupation situation or a war between
states.\textsuperscript{165} As circumspect realist Kenneth Waltz points out in
another context, non-bloody occupation situations do not mean
that peace (democratic or otherwise) reigns supreme.\textsuperscript{166}

Moreover, to characterize this intervention as an internal
conflict—surely the Dominican Republic cannot occupy itself—
stretches the descriptive power of such conflict typologies beyond
their empirical utility and in ways that may undermine their
explanatory (theoretical) power.\textsuperscript{167} If occupation situations can be
empirically defined as internal wars, this raises fundamental
questions about the IR theory—wittingly or not—embedded in
standard conflict data.\textsuperscript{168} That is, if we designate the 1965 U.S.
intervention and occupation of the Dominican Republic as an internal war—a war incidentally, that is still reaping political and regional consequences today—we fundamentally distort the political nature of this war and misunderstand U.S. interests in intervention. More perniciously, do we import into our purportedly social scientific, data subtle justifications of strategic power that even hardboiled realists would reject?

B. Comparing ACD and MSACC Data: Common Patterns and Differences at a Glance

Given this discussion, we now demonstrate in data results some of the differences between MSACC and ACD data as a point of comparison: Figure 1 shows the numbers of intrastate wars coded by MSACC and ACD, respectively, while Figure 2 compares the numbers of interstate wars for the respective datasets. In order to facilitate comparison of the data, we combined ACD's three NIAC conflict types, extra-systemic (E-NIACs), internationalized (I-NIACs), and internal (NIACs), into a single “NIAC” conflict type and extracted only those conflicts under ACD in which an OIC member participated in conflict. In comparing IACs between OIC members under ACD, we defined an IAC between OIC states based only on the two primary dyads and did not consider secondary dyads.

“changed much” since the Cold War). Rather, “we may be more aware of norms that especially the United States does not obey,” as “it’s hard to think of any other country that’s as interventionist as the United States”—so much so that “[w]e don’t even notice that we intervene.” Id. Kenneth Waltz then asks, “How many people remember that we invaded the Dominican Republic in 1965?” and goes on to explain that “[i]t just doesn’t exist in the American memory.” Id. Though, “I’m sure,” Waltz continues, “it does in the Dominican Republic, I’m sure they remember it! We put 23,000 troops in the Dominican Republic, which is of course a larger military body than the Dominican Republic itself could muster. Id. So naturally it fits right in with ‘democracies don’t fight wars,’ because if you’re a really powerful democracy, you don’t need to fight wars. You just occupy the country. Id. They’re not going to fight back.” Id. See also generally JUNOT DIAZ, THE BRIEF WONDROUS LIFE OF OSCAR WAO (2007) (capturing this discrepant history, ironically, in fiction, in a Pulitzer-prize winning novel set against the backdrop of this U.S. occupation—but not in our standard social science datasets).

169 Waltz & Fearon, supra note 166, at 13.
170 Id.

171 See infra Figure 1 & Figure 2 (recoding extra-systemic wars and internationalized intra-state wars in the ACD dataset as intra-state wars); ACD dataset, supra note 149.
In Figure 1, both MSACC and ACD have the same pattern in intrastate wars for Muslim actors over time—decrease, increase, then decrease—but the ACD dataset indicates a more precipitous decline in intrastate wars for Muslim states up to the Islamic Revolution (1979) period, whereas the MSACC data shows a more dynamic pattern coordinated with key historical events, including, the Islamic Revolution. It is important to note, however, that the number of intrastate (and interstate) conflicts in the MSACC dataset is largely higher than those identified in the ACD (the ACD is lower in three time frames, but higher in one time frame). This discrepancy is somewhat surprising given the lower threshold for determining both intrastate and interstate armed conflicts in the ACD, which would mean that the ACD data should find more (not less) overall armed conflicts than the MSACC data. Nevertheless, in both datasets, Figure 1 illustrates a consonance in findings over time and after the Islamic Revolution period: that is, despite the different standards for identifying NIACs, Muslim states appear to be more conflict prone in the post-Islamic Revolution period, but less conflict prone in the Cold War and post-Cold War period up through the September 11, 2001-2014 period.

Figure 2 shows that—in contrast to intrastate conflicts—the number of MSACC interstate conflicts is always higher than those identified in the ACD data. This finding is interesting given, as mentioned, the ACD lower threshold for determining an armed conflict, so that one would expect the ACD numbers to be consistently higher (not lower) for both interstate and intrastate categories. An important contravening factor is that the ACD records far longer dates for wars than the MSACC dataset does, thus, resulting in what would be recorded as multiple wars under the legal definition pressed together into one armed conflict designation under the ACD. For example, ACD coded the conflict between Iran and Iraq, from 1974 to 1988, as one 14 yearlong

172 See infra Figure 1; see also ACD dataset, supra note 149 (focusing on patterns of Muslim states in armed conflicts).
173 See ACD dataset, supra note 149 (focusing on patterns of Muslim states in armed conflicts); see infra Figure 1.
174 See generally Sarkees, Codebook, supra note 71 (defining components of interstate and intrastate wars).
175 See infra Figure 1.
conflict, whereas MSACC coded these hostilities as two separate wars: one from 1972-1975 and the other from 1980-1988. Another example occurs in Uganda, where ACD identified one conflict from 1971 to 2013, whereas MSACC treated this 40 plus year period as including six separate conflicts (in some cases including different belligerents). Still another example is in Pakistan, where ACD coded a conflict with India in the Kashmir region from 1948 to 2003 as a single 55-year long conflict, whereas MSACC criteria define two separate interstate conflicts during this long period. In these examples it is not simply a matter of dividing conflicts according to different notions of start and end dates, but whether a given conflict actually meets the legal threshold during the period. In Pakistan and India, for instance, we determined that no conflict existed under international law during the conflict period of 1984 through 1992.

Beyond different coding rules, Figure 2 also shows that while both datasets indicate that interstate wars largely declined over the same total period, the number of interstate conflicts under an IHL-based definition fluctuated (from 25 to 9, and from 9 to 8 wars) in each successive period. Since our definition of interstate conflict has a higher threshold than that of ACD, we speculate that while Muslim states engaged in de facto armed hostilities after the Iranian Revolution, they had a tendency to avoid large-scale fighting, which is reflected in the lower number of ACD conflicts. Overall, Figures 1 and 2 indicate that the MSACC and ACD data reflect similar conflict patterns, but indicate some important differences in how Muslim states engage in conflicts over time. Notably, it appears that the MSACC data may be more sensitive in picking up a larger number of conflicts involving Muslim state actors.

176 ACD dataset, supra note 149, at Conflict ID #128.
177 Id. at Conflict ID #118.
178 Id. at Conflict ID #20.
179 See infra Figure 2.
180 See infra Figure 1 and Figure 2.
181 Id.
182 Id.
Figure 1: Comparison in NIACs between MSACC and ACD

ACD & MSACC Total NIAC Comparison

<table>
<thead>
<tr>
<th>Year</th>
<th>ACD NIAC</th>
<th>MSACC NIAC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cold War</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Islamic</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Berlin Wall</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Post 9/11</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Figure 2: Comparison in IACs between MSACC and ACD datasets

ACD & MSACC Total IAC Comparison

<table>
<thead>
<tr>
<th>Year</th>
<th>ACD IAC</th>
<th>MSACC IAC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cold War</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Islamic</td>
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<tr>
<td>Berlin Wall</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Post 9/11</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
As the aggregate results may be difficult to interpret, we briefly relay a case study to demonstrate an example of these definitional differences in more detail. For this exercise, we have chosen three countries from the same region to control for regional fixed effects. Based on the MSACC data, we selected the most conflict-prone, the least conflict-prone, and the intermediary conflict-prone countries from the Middle East region: Yemen, Oman, and Jordan, respectively.¹⁸³

**Table 1: List of Conflicts in Yemen, Jordan, and Oman by ACD and MSACC**

<table>
<thead>
<tr>
<th>Country</th>
<th>Opponents</th>
<th>ACD Type</th>
<th>MSAC Type</th>
<th>Start Year</th>
<th>End Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yemen</td>
<td>Yemenite Socialist Party</td>
<td>NIAC</td>
<td>NIAC</td>
<td>1986</td>
<td>1986</td>
</tr>
<tr>
<td>Yemen</td>
<td>Royalists</td>
<td>NIAC</td>
<td>NIAC</td>
<td>1962</td>
<td>1970</td>
</tr>
<tr>
<td>Yemen</td>
<td>Democratic Republic of Yemen</td>
<td>NIAC</td>
<td>NIAC</td>
<td>1994</td>
<td>1994</td>
</tr>
<tr>
<td>Yemen</td>
<td>FLOSY</td>
<td>NIAC</td>
<td>IAC</td>
<td>1964</td>
<td>1967</td>
</tr>
</tbody>
</table>

¹⁸³ *See infra Table 1.*
<table>
<thead>
<tr>
<th>Country</th>
<th>Opposition</th>
<th>NIAC</th>
<th>n/a</th>
<th>Start Year</th>
<th>End Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yemen</td>
<td>PFLO</td>
<td>NIAC</td>
<td>n/a</td>
<td>1969</td>
<td>1975</td>
</tr>
<tr>
<td>Yemen</td>
<td>NDF</td>
<td>NIAC</td>
<td>n/a</td>
<td>1979</td>
<td>1982</td>
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<tr>
<td>Yemen</td>
<td>AQAP</td>
<td>NIAC</td>
<td>NIAC</td>
<td>2009</td>
<td>present</td>
</tr>
<tr>
<td>Yemen</td>
<td>Yemen</td>
<td>IAC</td>
<td>NIAC</td>
<td>1979</td>
<td>1979</td>
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<tr>
<td>Yemen</td>
<td>Yemen</td>
<td>IAC</td>
<td>IAC</td>
<td>1972</td>
<td>1972</td>
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<tr>
<td>Yemen</td>
<td>Somalia</td>
<td>IAC</td>
<td>n/a</td>
<td>1977</td>
<td>1978</td>
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<tr>
<td>Yemen</td>
<td>Houthis</td>
<td>n/a</td>
<td>NIAC</td>
<td>2004</td>
<td>present</td>
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<tr>
<td>Yemen</td>
<td>Saudi Arabia</td>
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<td>IAC</td>
<td>1994</td>
<td>1994</td>
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<tr>
<td>Yemen</td>
<td>Saudi Arabia</td>
<td>n/a</td>
<td>IAC</td>
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<tr>
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<td>1998</td>
<td>1998</td>
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<td>Yemen</td>
<td>Saudi Arabia</td>
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<td>2009</td>
<td>2009</td>
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<td>1975</td>
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<td>1978</td>
<td>2001</td>
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<tr>
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<td>al-Qaida</td>
<td>NIAC</td>
<td>n/a</td>
<td>2001</td>
<td>2002</td>
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<tr>
<td>Jordan</td>
<td>Israel</td>
<td>IAC</td>
<td>IAC</td>
<td>1948</td>
<td>1949</td>
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<tr>
<td>Jordan</td>
<td>Israel</td>
<td>IAC</td>
<td>IAC</td>
<td>1967</td>
<td>1967</td>
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<tr>
<td>Jordan</td>
<td>Fedayeen</td>
<td>n/a</td>
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<td>1970</td>
<td>1971</td>
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<td>1957</td>
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Note: n/a denotes "Not Applicable," meaning the dataset does not include the conflict record.
Table 1 summarizes all the conflicts for Yemen, Jordan, and Oman to highlight distinctions in the datasets indicated in using an IHL-based definition of armed conflict. There are multiple instances in which conflicts included in the ACD dataset are not included in the MSACC data and vice versa. The Jordan conflict in 1970-1971, in which King Hussein mobilized state forces against armed Palestinian guerillas, is an example of a recorded NIAC in the MSACC data, but not in the ACD. In this example, Palestinian Fedayeen guerillas were an organized armed group with a centralized command structure who gained control of several key strategic positions in Jordan, such as the oil refinery near Az Zarqa. When the group successfully hijacked several planes within hours of each other, King Hussein initialized martial law countrywide and began an intensive civil war to expel the guerilla fighters from Jordan. The fighting caused extensive damage throughout Jordan and resulted in approximately 3,500 deaths on both sides (ACD still does not include this conflict in its dataset though it meets their battle-death standard).

There are also differences between the datasets in determining whether a conflict is an IAC or NIAC. For example, wars of independence in which previously ruled colonies overthrow their colonizing powers are classified as IACs as per Common Article 2, but ACD classifies these cases as NIACs, which in certain ways is more intuitive. Ultimately we believe the Geneva standard better theoretically captures these distinctive cases of colonial war in which an apparent internal conflict actually involves two (or more) state belligerents, even if one is an incipient state. Yemen in 1964-1967, for instance, gained independence from Britain, which is classified in the MSACC data

184 Compare supra Table 1, with ACD dataset, supra note 149 (omitting 1970-1971 conflict with Palestine).
186 Id.
187 Id.
188 See Geneva Convention I, supra note 74, art. 2.
190 See Geneva Convention I, supra note 74, art. 2.
as an IAC, whereas ACD defines this example as a NIAC.

With these elementary definitional differences in mind, we now turn to describe general conflict trends among Muslim states using MSACC data.

V. Muslim State Conflict Trends over Region, Time, and Conflict Type

Using simple bivariate analysis, we show broad-based conflict patterns for all Muslim states—including all intrastate and interstate conflicts and those interstate conflicts between exclusively Muslim state belligerents. As mentioned, the MSACC conflict data shows overall variation in armed conflict behavior across space and time. This dataset also includes IHL compliance per conflict and belligerent, but given space constraints here we only mention descriptive statistical findings from the compliance side of the research data.

Of the total 196 independent states in the world, 56 are members of OIC. Over the 67 year time frame tracked in the MSACC dataset from 1947-2014 (until March), taken together, these 56 member states participated in 121 armed conflicts: 70 NIACs and 51 IACs, including 22 IACs between Muslim states (MM-IAC). NIACs made up the majority of modern conflicts, affirming conflict findings for all states in the post-World War II period.

Of all Muslim states, only ten were not involved in any significant conflicts as primary belligerents during the period: Benin and Gabon in Africa; Guyana in the Americas; Brunei-Darussalam, Kazakhstan, the Maldives and Turkmenistan in Asia; and Bahrain, Qatar, and the U.A.E. in the Middle East. The

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191 See supra Table 1.
192 Themner, supra note 189, at 9.
194 See infra Table 2 and Figure 5.
195 See infra Figure 5.
196 There were numerous instances of states participating in coalition forces, not all of which were included in our dataset. Only participation in coalition forces that involved effective control was included, and in order to determine whether that
remaining 46 countries were involved in 121 total conflicts, an average of 2.63 conflicts per country in the framing period. Of this group of 46 states participating in 121 conflicts, those states involved in the most conflicts (in descending order) were: Yemen (12); Iraq (10); Egypt (8); Uganda (7); Afghanistan, Pakistan, Somalia, Saudi Arabia, and Syria (6). The states involved in the fewest conflicts were: Burkina Faso, Gambia, Guinea, Guinea-Bissau, Mauritania, Mozambique, Sierra Leone, Togo, Tunisia, Suriname, Malaysia, Tajikistan, Uzbekistan, Albania, and Oman, all of which were only involved in one conflict.

As mentioned, of the 121 total conflicts, NIACs make up 70 conflicts, IACs account for 51 conflicts, and of those 51 IACs, 22 occurred between exclusively Muslim states. Thus, the percentage of total IACs between two or more Muslim states is 43 percent (in contrast to 57 percent of IACs occurring between Muslim states and non-Muslim state belligerents). While the MSACC data confirms that NIACs represent a larger share of post-World War II conflicts in total, it also shows that interstate conflicts involving participation qualified as an armed conflict for the country, we began with the attribution of the actions of a non-state group to a state and extended international tribunals’ thresholds onto the actions of states when supporting other states. The International Court of Justice has found that the state must exercise effective control over the armed group in order to attribute the armed group’s actions to the state. See Military and Paramilitary Activities in and Against Nicaragua (Nicar. v. U.S.), 1986 I.C.J. 14, 181 (June 27). The International Criminal Court (ICC) has found that in the conflict between the Democratic Republic of Congo and non-state groups, Uganda’s substantial contribution of troops, weapons and ammunition to armed groups were substantial grounds to believe the conflict was between states. See Prosecutor v. Dyilo, Case No. ICC-01/04-01/06 (Mar. 14, 2012), available at www.icc-cpi.int/iccdocs/doc/doc1379838.pdf; see Prosecutor v. Katanga, Case No. ICC-01/04-01/07 (Mar. 7, 2014), available at www.icc-cpi.int/iccdocs/doc/doc1744366.pdf. Therefore, in our dataset, because coalition partners do not necessarily operate separately, coordinating plans and intermingling troops, in cases of conflicts where states acted together, we determined to the best of our ability, what states, if any, exercised effective control over another state. Factors that were used to define effective control included: chain of command; troop strength; logistics like providing arms; extensive monetary support; and initiating hostilities rather than supporting hostilities. The states that exercised effective control over the conflict, termed “main belligerents,” have the conflict listed under that state, whereas the states that did not exercise effective control over the conflict, termed “supporting states,” do not list that conflict under that state. Frequently, the United States, whose commanders often hold top leadership positions within the coalition structure, is a main belligerent and smaller states, such as the U.A.E. and Qatar during the Gulf War, are merely supporting states, typically only contributing forces or bases or conducting training of native troops.

197 See infra Figure 4.
exclusively Muslim states do not outpace mixed-state interstate conflicts.\textsuperscript{198} This finding is somewhat deceptive, however, because when combining the 43 percent of exclusively Muslim-state IACs with the percentage of NIACs (intrastate conflicts involving predominantly Muslim state and non-state actors), the actual number is closer to 92 conflicts out of the total 121.\textsuperscript{199} Aggregating Muslim-state IACs with NIACs, the percentage of conflicts involving Muslim actors (states and non-states) with respect to total conflicts is 76 percent.\textsuperscript{200}

\textit{Figure 4: Proportion of IACs

MSACC IAC & MM IAC

\begin{tikzpicture}
\pie{43/MSACC IAC,57/MM IAC}
\end{tikzpicture}

We now disaggregate these findings over time and across space. Table 2 summarizes the descriptive analyses. To show the trends visually, the following subsections give more detailed description of the conflict behavior of Muslim states by using some additional figures.

\textsuperscript{198} See infra Figure 5.
\textsuperscript{199} See infra Figure 4, Figure 5, Table 2.
\textsuperscript{200} See infra Table 2.
Table 2: Summary of Conflict Behavior by Muslim States over Time and across Regions

<table>
<thead>
<tr>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
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<td>N</td>
<td>%</td>
<td>N</td>
<td>%</td>
<td>N</td>
</tr>
<tr>
<td>IAC</td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
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<td>100</td>
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</table>
A. Geographical Patterns

We grouped conflict behavior by Muslim states according to geographical region, using relatively standard regional boundary definitions also used by the Uppsala Conflict Data Program (ACD) to facilitate comparisons among datasets.\(^{201}\) The geographical regions are: Africa, the Americas, Asia, Europe, and the Middle East.\(^{202}\) Figure 5 provides a summary of our findings on conflicts for Muslim states, including the proportion of IACs that involve exclusively Muslim state belligerents.

**Figure 5: Overall Totals by Region**

![MSACC Conflict Totals by Region](image)

1. Africa

In Africa, there are 27 OIC member states involved in a total

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\(^{201}\) See ACD dataset, *supra* note 149.

\(^{202}\) See *infra* Figure 5 (designating the following regions: Africa (which includes Algeria, Benin, Burkina Faso, Cameroon, Chad, Comoros, Cote D'Ivoire, Djibouti, Gabon, Gambia, Guinea, Guinea-Bissau, Libya, Mali, Mauritania, Morocco, Mozambique, Niger, Nigeria, Senegal, Sierra Leone, Somalia, Sudan, Togo, Tunisia, and Uganda); the Americas (Guyana and Suriname); Asia (Afghanistan, Bangladesh, Brunei-Darussalam, Indonesia, Kazakhstan, Malaysia, Maldives, Pakistan, Tajikistan, Turkmenistan, and Uzbekistan); Europe (Albania and Azerbaijan); and the Middle East (Bahrain, Egypt, Iran, Iraq, Jordan, Kuwait, Kyrgyzstan, Lebanon, Oman, Qatar, Saudi Arabia, Syria, Turkey, the United Arab Emirates, and Yemen)); see *Composition of Macro Geographical (Continental) Regions, Geographical Sub-regions, and Selected Economic and Other Groupings*, U.N. STATISTICS DIV. (Oct. 31, 2013), [http://unstats.un.org/unsd/methods/m49/m49regin.htm](http://unstats.un.org/unsd/methods/m49/m49regin.htm).
of 55 conflicts. Benin and Gabon were not involved in any conflicts. Of the 55 total armed conflicts, 19 were IACs and 36 were NIACs. In the case of the IACs, Somalia participated in the highest number of conflicts at four, while three states—Chad, Libya, and Morocco—participated as primary belligerents in three conflicts each. IACs involving exclusively Muslim state belligerents totaled 8.

In the case of the NIACs, Uganda accounted for the largest number of NIACs at 6, and Nigeria and Sudan were responsible for the next highest number of recorded internal wars, with a total of 3 each. Consistent with the literature, NIACs make up the vast majority of the conflicts in the African region, 65.45 percent, while 34.55 percent are IACs. Of the 19 IACs, 8 conflicts were between two or more Muslim states exclusively, while 11 of the IACs were between a Muslim and non-Muslim state. Chad, for instance, engaged in conflicts with Nigeria, Libya, and Sudan, all Muslim state-versus-Muslim state conflicts.

In general, the international conflicts in the African region were African-centric. That is, no Muslim state in the African region was involved in an IAC with another Muslim state outside the African region, though states in the African region were involved in conflicts with non-Muslim states outside of the region, mostly in the decolonization context. In percentage points, of the IACs, 42.11 percent were between two or more Muslim-majority states, and as mentioned, all of those conflicts were with countries in the African region.

We conclude that modern armed conflict among Muslim states in Africa is extremely regional and Africa-centric, internal wars or NIACs significantly outpace IACs (almost double the percentage), and IACs between exclusively Muslim state belligerents predominate.
2. Americas

In the Americas, which include North, South, and Central America, there are two Muslim states: Guyana and Suriname. Guyana recorded no significant conflicts, while Suriname was involved in one NIAC with the Surinamese Liberation Army during 1986-1988. The total conflicts in the Americas were, thus, one, namely, one NIAC and no IACs.

3. Asia

In the Asian region, there are eleven Muslim states: Afghanistan, Bangladesh, Brunei-Darussalam, Indonesia, Kazakhstan, Malaysia, Maldives, Pakistan, Tajikistan, Turkmenistan, and Uzbekistan. Of this group, four—Brunei-Darussalam, Kazakhstan, the Maldives, and Turkmenistan—recorded no armed conflicts. Of the 18 total conflicts that occurred in the Asia region, 10 were NIACs and 8 were IACs. Of those IACs, 3 involved exclusively (two or more) Muslim state belligerents: namely, the conflicts between Afghanistan and Pakistan; between Bangladesh and Pakistan; and between Indonesia and Malaysia. Afghanistan and Pakistan engaged in the most armed conflicts at 6 each; Afghanistan with 3 IACs and 3 NIACs and Pakistan with 4 IACs and 2 NIACs. Indonesia engaged in 4 conflicts, 2 IACs and 2 NIACs, and Bangladesh engaged in 2 conflicts, 1 IAC and 1 NIAC. In contrast to Africa, in the Asia
region IACs and NIACs were almost evenly split in number, and all but two IACs, Afghanistan versus the Soviet Union (1979-1989) and Afghanistan versus the U.S.-led NATO coalition (2001-2002), were between belligerents who were located in the Asia region. The Asia region had two states that ranked in the top ten conflict-prone states: Afghanistan and Pakistan, which both logged 6 conflicts.

*Figure 7: Conflicts in Asia*

![Graph showing Asia Conflicts]

### 4. Europe

In the European region, there are two Muslim states: Albania and Azerbaijan. Albania was involved in one NIAC, and Azerbaijan was involved in one NIAC and one IAC against Armenia. Thus there were a total of 3 conflicts for Europe, 2 NIACs and 1 IAC; furthermore, there were no European armed conflicts involving exclusively Muslim state belligerents.
5. Middle East

In the Middle East region, there are a total of 16 Muslim states, which engaged in a total of 44 conflicts: 21 of those conflicts were NIACs and 23 were IACS. In the Middle East, interestingly, IACs outrank NIACs, atypical for any of the other regions and for general Muslim state conflict trends. The Middle East, that is, remains the only region in which international armed conflicts outpace internal armed conflicts.

Yemen recorded the highest number of conflicts, with 12: 7 IACs and 5 NIACs. Iraq recorded the second highest number of conflicts at 10: 7 IACs and 3 NIACs. Egypt engaged in 8 conflicts: 6 IACs and 2 NIACs. Saudi Arabia and Syria both were involved in 6 conflicts each: Saudi Arabia had 6 IACs while Syria had 4 IACs and 2 NIACs. Of the 23 total IACs in the Middle East, less than half, 11, were between exclusively Muslim state belligerents but all of those Muslim state belligerents were located in the Middle East region. The remaining 12 IACs included one Middle East-based Muslim state belligerent and at least one non-Muslim state belligerent such as Israel, the United Kingdom, and the United States. Over half the IACs in the Middle East region involved Western states. NIACs account for 45 percent of the conflicts in the Middle East.

In the Middle East region, then, IACs buck the trend and outrank NIACs, conflicts that involve exclusively Muslim state actors make up over 47 percent of IACs and 57 percent of all
conflicts, and conflicts largely, 72 percent, tend to occur inside the region.

**Figure 9: Conflicts in the Middle-East**

![Middle East Conflicts](image)

**B. Overall Regional Trends**

The lion’s share of armed conflicts belongs to the Africa region, which saw a total of 55 armed conflicts, comprised of 19 IACs (8 of which were exclusively between Muslim states) and 36 NIACs in the framing period. The total Africa region conflicts compare with the other highly-ranked conflict regions as follows: 44 Middle East total conflicts, including 21 NIACs, 23 IACs, and 11 IACs between Muslim states; 18 total conflicts in the Asia region, including 10 NIACs, 8 IACs, and 3 IACs between Muslim states. By contrast, Europe had 1 IAC and 2 NIACs and the Americas recorded only 1 NIAC.

In the case of Africa, most conflicts are NIACs, as mentioned, with 36 NIACs versus 19 IACs, but of the IACs, 8 were conflicts involving exclusively Muslim state belligerents. The other 11 IACs involved at least one non-Muslim state. However, 3 of those 11 IACs between Muslim and non-Muslim states were decolonization struggles in which the subsequent formal Muslim state won independence from a former governing colonial power: Algeria and France; Morocco and France; Tunisia and France. The African region, moreover, illustrates emphatically the regional nature of Muslim state armed conflict and that conflicts appear, that is, in regional groupings. No African state was involved in a
conflict outside of the region.

This regional trend in conflict occurrence involving exclusively Muslim state parties within the same region is evident across other geographical regions. In the Middle East, for instance, of the 11 IACs among two or more exclusively Muslim state belligerents, all were limited to the Middle East. Likewise, in the Asia region, armed conflicts were divided almost equally between IACs and NIACs, but every interstate conflict involving two or more Muslim states was confined to the Asia region.

This “in-region” armed conflict trend for Muslim state belligerents may dominate for several reasons, some obvious: proximity, as states in the same region have easier access to each other’s borders and natural resources, and hence, are more apt to be engaged in disputes over these items. But it is also true that there are more Muslim states in many of these regions (i.e. Africa, Middle East) so it is more likely that conflicts occurring in Africa involve Muslim states. More interestingly, the prevalent conflict type—IAC or NIAC—was, likewise, similar by region: in Africa, the majority, 65.45 percent of the 55 conflicts were NIACs, whereas in the Middle East, the majority of conflicts were IACs: 52.27 percent. Likewise, in Asia, 55.56 percent of the 18 conflicts were NIACs.

C. Temporal Patterns

In examining how conflicts (i.e., NIAC or IAC) change over time, we find that IACs—between mixed states and between only Muslim states—generally decreased over time with a slight increase in Muslim versus Muslim (MM) IACs between 1989 and 2001, whereas NIACs revealed a much more dynamic pattern: decreasing, increasing, and then decreasing again over time. We separated the conflict data into four periods divided by significant historical, political, and/or global events, namely: the Cold War and the decolonization era from 1947-1978; the Post-Islamic Revolution era of conflicts, from 1979-1988; the fall of the Berlin Wall and Soviet Empire, from 1989 to 2001; and the post -9/11 terrorist attacks, from 2001-2014.
Figure 9 shows that during the Cold War and decolonization period, more conflicts were of an international character than non-international, and beginning in the Islamic Revolution period, the majority of all conflicts were internal. In the Cold War period, there were 21 NIACs and 25 IACs, of which 9 were MM IACs, making 45.65 percent of all conflicts NIACs and more than half of the conflicts during that time (54.35 percent) IACs, of which more than one third, 36 percent, was between Muslim states. In the Islamic Revolution period in which there were 10 NIACs and 9 IACs, including 5 between Muslim states, NIACs made up 52.63 percent of conflicts while total IACs accounted for 47.37 percent and IACs between Muslim states made up 26.32 percent of all IACs. In the Berlin Wall period, 22 NIACs, 70.97 percent, and 9 IACs, 29.03 percent occurred, with 6 of the IACs, 19.36 percent, occurring between Muslim states. In the post-9/11 period, 17 of the total 25 conflicts were NIACs (68 percent) and 8 conflicts were IACs (32 percent), of which only 2 were exclusively between Muslim state belligerents (8 percent). The data shows that in general, IACs have declined, as have IACs involving exclusively Muslim state belligerents. Conversely, NIACs have increased in the same period.
D. Compliance and Variation

As part of the MSACC dataset, each Muslim state’s compliance record with international humanitarian law for every conflict was studied, and instances of IHL violations of core norms were documented. For this related data, each conflict is recorded under each state participating in the conflict as a belligerent: totaling 151 conflicts with 70 NIACs, 81 IACs, and 42 IACs exclusively between Muslim states. Upon analysis for trends in compliance with IHL across regions, temporal periods, and conflict types, one overarching conclusion can be drawn: a state in an armed conflict is more likely to violate than to comply with IHL. Table 3, below, details the compliance data of MSACC broken down by region and conflict type.

In Africa and the Middle East regions, states complied with IHL in the cases of IACs one and a half times as more than they violated IHL. By contrast, in Asia, two thirds more states involved in IACs violated IHL than those that complied. Likewise, in Europe the sole IAC within the region showed violations in IHL by at least one state party, and in the Americas no IACs were recorded in the data. In IACs that were exclusively between Muslim state belligerents, over two times as many IACs in Africa and one and a half times as many in the Middle East showed states in compliance with IHL as compared to the number of violators. In Asia, 60 percent of Muslim state only IACs revealed state compliance with IHL compared to the 40 percent within the region that violated IHL. There were no Muslim-only IACs documented in the MSACC data in the Americas or Europe.

In direct contrast to the trend of IACs favoring compliance with IHL, NIACs show the exact opposite. State actors in intrastate wars, no matter what region, are highly likely to violate IHL. In three regions, the Americas, Asia, and Europe, all states involved in NIACs violated IHL. In the Middle East, state belligerents in NIACs violated IHL 80 percent of the time, and in Africa, 89 percent of NIACs revealed state violations of IHL.

Overall, Muslim states in Africa and the Middle East were far more likely to comply with IHL in interstate wars than to violate IHL in interstate wars. However, in those same regions, Africa and the Middle East, violations of IHL by states occurred at 80 to 89 percent in intrastate wars. Also, the Middle East had the highest likelihood of compliance with IHL, 46 percent, followed by Africa, at 33 percent.
**Table 3: MSACC IHL Compliance by Region**

<table>
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<th>America</th>
<th>Asia</th>
<th>Europe</th>
<th>Middle East</th>
</tr>
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<tr>
<td>IAC</td>
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<td>0</td>
<td>6</td>
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<td><strong>67%</strong></td>
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<td><strong>100%</strong></td>
<td><strong>80%</strong></td>
<td><strong>20%</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

VI. Conclusion:

Scholars, policy analysts, and other commentators in the public domain have long argued that Muslim states are conflict-prone. The MSACC data indicates both spatial and temporal variation among Muslim states in their conflict behavior: some Muslim states are, indeed, more likely to engage in armed conflicts than others (i.e., Yemen, Egypt, Syria, Uganda, Iraq, Pakistan, Somalia, Saudi Arabia, Afghanistan, Lebanon, Sudan, Nigeria, and Chad); yet, several states, approximately 18 percent, as our data shows, were not involved in any armed conflict over the course of a sixty year period. Likewise, certain regions—notably, the Americas and Europe—had very small incidents of armed conflict by Muslim states, and even in higher conflict regions and among conflict-prone states, there are periods in which Muslim states are less likely to engage in wars: for instance, between 1979 and 1988 and again in the post 9/11 period. This last finding is consistent with recent work and provides an empirical basis to further explore variation among Muslim states in related inquiry.

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204 Erik A. Gartzke & Kristian Skrede Gleditsch, *Identity and Conflict: Ties that Bind and Differences that Divide*, 12 EUR. J. INT’L REL. 53 (2006) (critiquing an ex post facto analysis of the role of culture in conflict); see also Tusicisy, supra note 4 (describing differences in the frequency and intensity of conflicts during and after the Cold War).
of interstate and intrastate wars, too little inquiry has contemplated 
the potential contribution of international humanitarian law criteria 
to this inquiry. It is here, by introducing a new legal definition of 
armed conflict into quantitative conflict inquiry, that we hope to 
provide a rigorous and fresh perspective on understanding political 
violence across Muslim states.