

INTERNATIONALIZED ARMED CONFLICTS: THE WARS OF OUR AGE

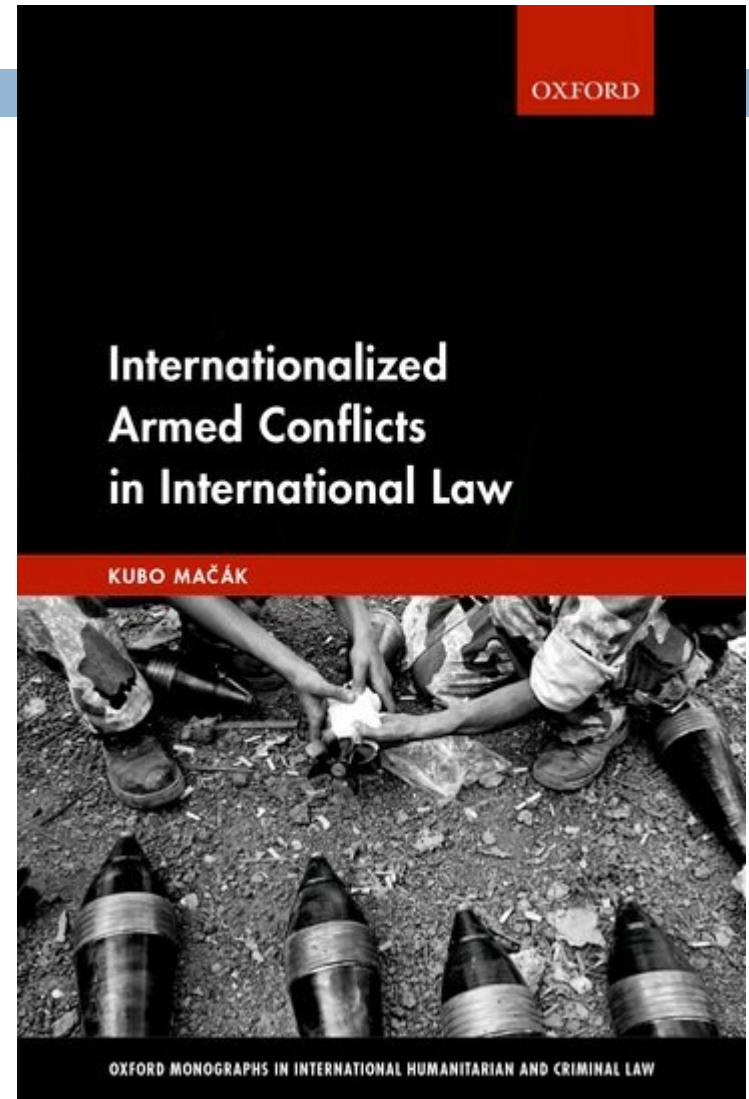
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Professor Kubo Mačák, University of Exeter

At first glance

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- Exploration of the notion, process, and effects of internationalization of armed conflicts in international law
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- Argument in favour of extensive application of IHL to internationalized armed conflicts



Starting point

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□ Evolution of modern conflicts: similar factual pattern

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□ Regulation of modern conflicts: NIACs vs. IACs

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□ Research puzzle: threshold and consequences

Notion of internationalization

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- NOT (pre-existing literature)
 - ▣ Civil war marked by outside interference
 - ▣ Conflict characterized by a mixture of non-international and international elements

- YES (see pp. 24-28)
 - ▣ **Internationalization** = the process of transformation of the legal nature of a prima facie NIAC, which renders the law of IAC applicable to such a conflict
 - ▣ **Internationalized armed conflicts** = Conflicts that have undergone the process of internationalization

Part I: Process

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- Four main modalities of internationalization
 - Outside intervention
 - State dissolution
 - Wars of national liberation
 - Relative internationalization
- Complex conflict situations (3+ parties)
- De-internationalization

Parts II and III: Effects

- Internationalized armed conflicts by definition begin as NIACs
 - ▣ Typically: single territory, government, nationality...
- The process of internationalization means that the law of IACs is to apply to them
 - ▣ But: predicated on a duality (or plurality) of territories, governments, nationalities...
- What are, then, the legal effects of internationalization?
 - ▣ Focus: areas with markedly different normative frameworks in NIACs vs. IACs (combatancy and belligerent occupation)

Modality 1: Outside intervention

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- Military in nature
- Absence of consent of the territorial State
- Two main types
 - ▣ Direct intervention
 - ▣ Indirect intervention
- *Example: Libya (2011)*

Modality 2: State dissolution

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- New State (or States) emerge during an ongoing armed conflict
- Traditional position: requirements of stability and permanence made this impossible (see e.g. *Åland Islands* case, 1920)
- Post-1945 development: traditional requirements trumped by the principle of self-determination (decolonization context) and the principle of effectiveness (irreversible State disintegration)
- *Examples: Guinea-Bissau (1970s) and ex-Yugoslavia (1990s)*

Modality 3:

Wars of national liberation

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- Legal basis: Article 1(4) AP I
 - ▣ “armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination” are to be considered as IACs
- Highly controversial
 - ▣ Supporters: logical and morally desirable by-product of the decolonization process
 - ▣ Detractors: vague, subjective, politicized, destined to become a “dead letter”
- *Example: Polisario Front (2015) (?)*

Modality 4:

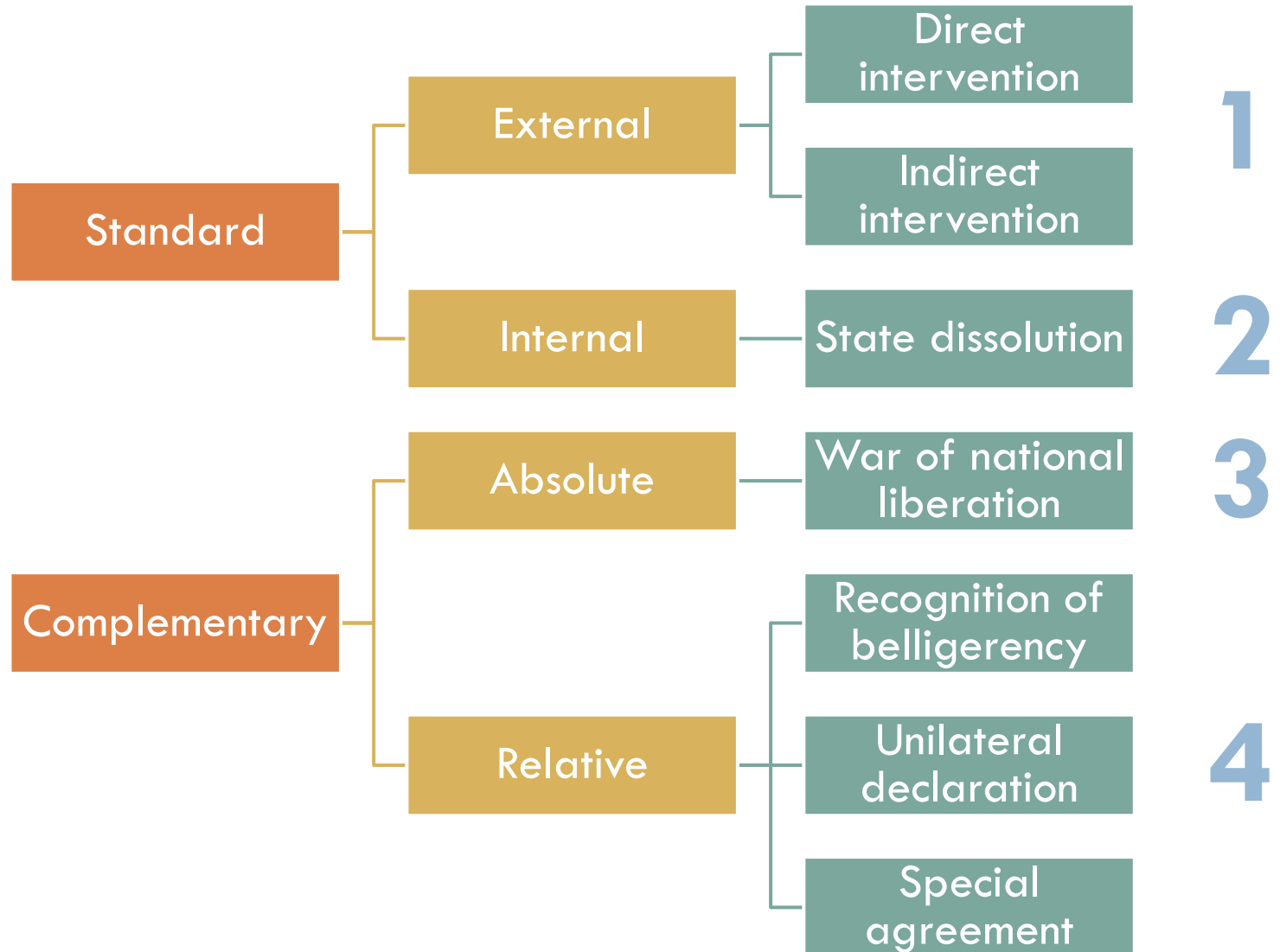
Relative internationalization

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- Effects of internationalization limited to the non-State actor and the acting third party (= relative, not absolute)
- Three main types
 - ▣ Recognition of belligerency
 - ▣ Unilateral declaration
 - ▣ Special agreement
- *Examples: US Civil War (1860s), ex-Yugoslavia (1990s)*

Overview: Map of internationalization

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Thank you for your attention.

Professor Kubo Mačák

University of Exeter

E-mail: k.macak@exeter.ac.uk

Twitter/X: [@KuboMacak](https://twitter.com/KuboMacak)