

CONFLICT CLASSIFICATION



ICRC

When does IHL apply?



Outline

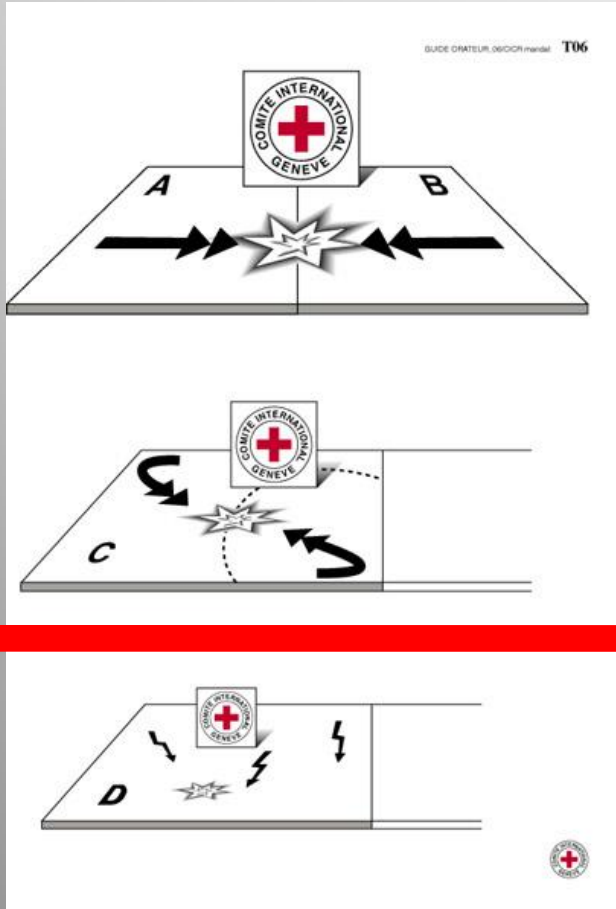
- Why the ICRC classifies conflicts
- Two types of conflicts:
 - International armed conflicts (5 ways to enter)
 - Non-international armed conflicts (4 ways to enter)
- Example
- End of IHL applicability

Why do we classify conflicts?

- Must know which body of law applies
 - IHL permits actions that may be illegal under domestic law and human rights law
 - Status of persons
- Legal basis of ICRC action
- Dialogue with parties to the conflict



Material Scope of Application



International Armed Conflict

- Between two or more States
 - National liberation wars
 - Occupation (even if no resistance)
 - 600 articles

Non-international Armed Conflict

- Between a State and a non-State actor; (Common Article 3 and APII), or
- Between non-State actors (Common Article 3)
- 29 articles

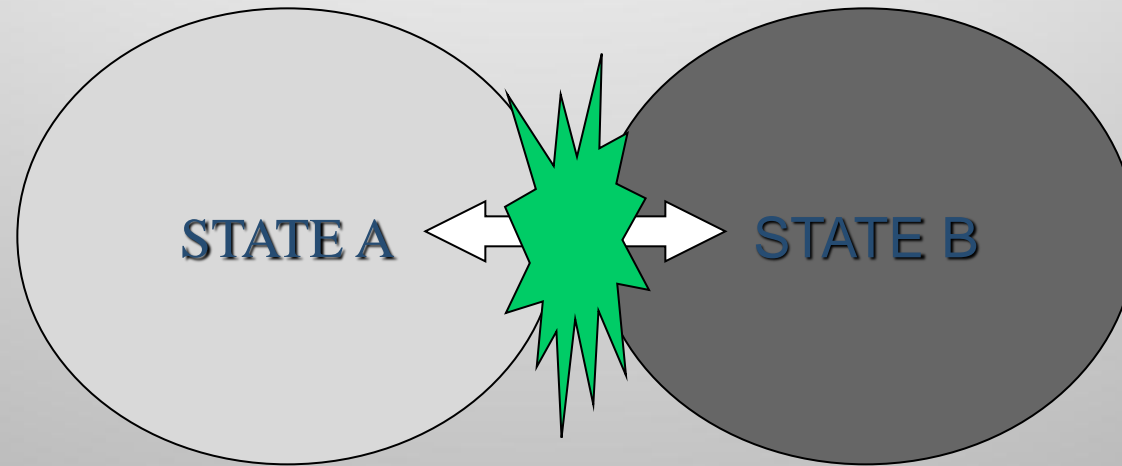
internal tensions or disturbances

► IHL IS NOT APPLICABLE

INTERNATIONAL ARMED CONFLICTS

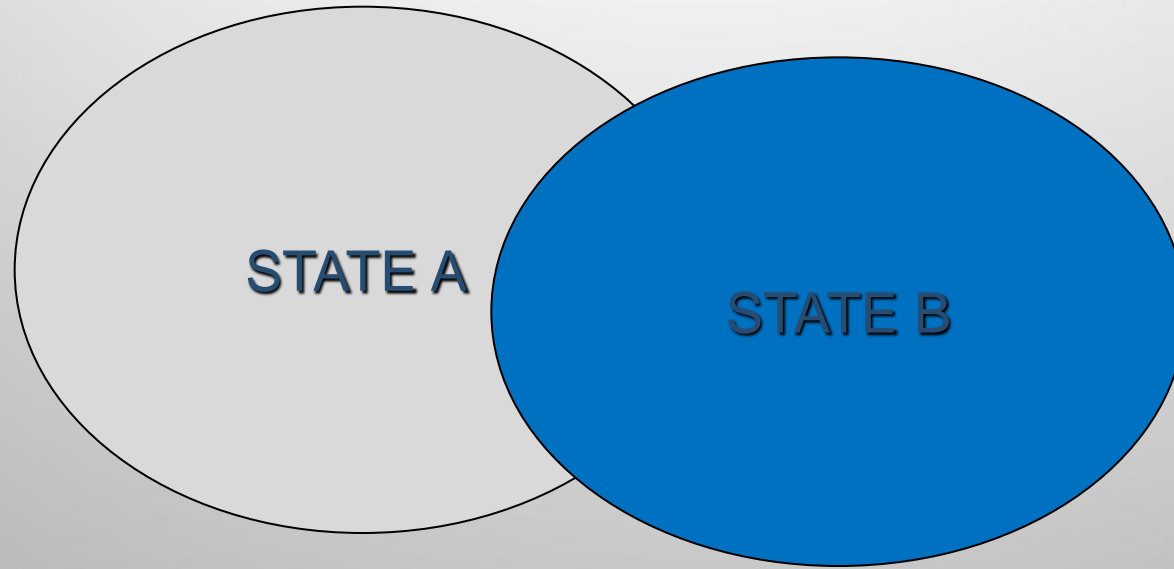
1. "Classical" IACs
2. Occupation
3. Foreign military intervention in support of NSAG
4. AP I(4) IACs

"Classical" International Armed Conflict resort to armed force between two or more States



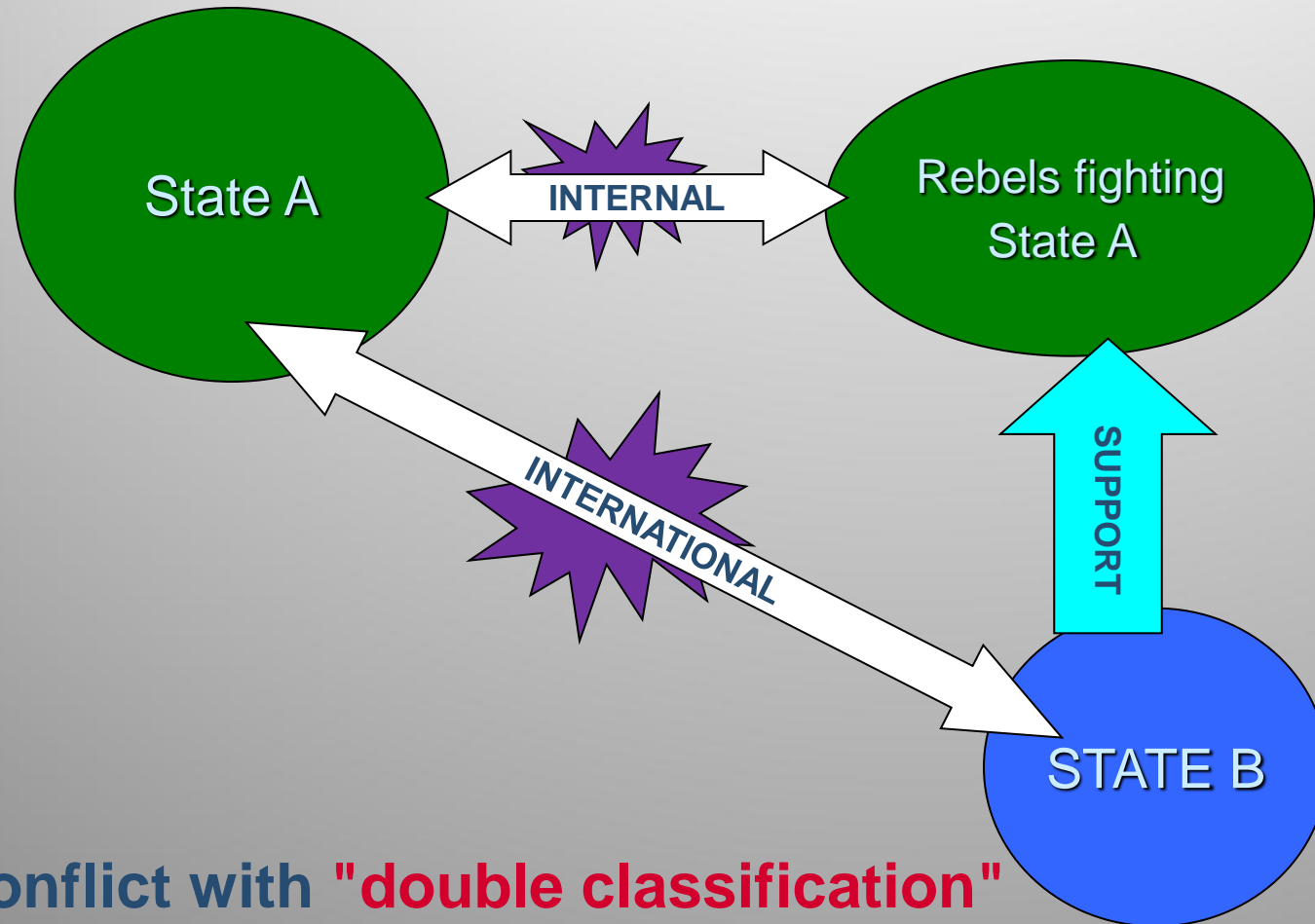
➤ all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them (*Common Art. 2, GC I – IV*)

Law of IAC: Occupation



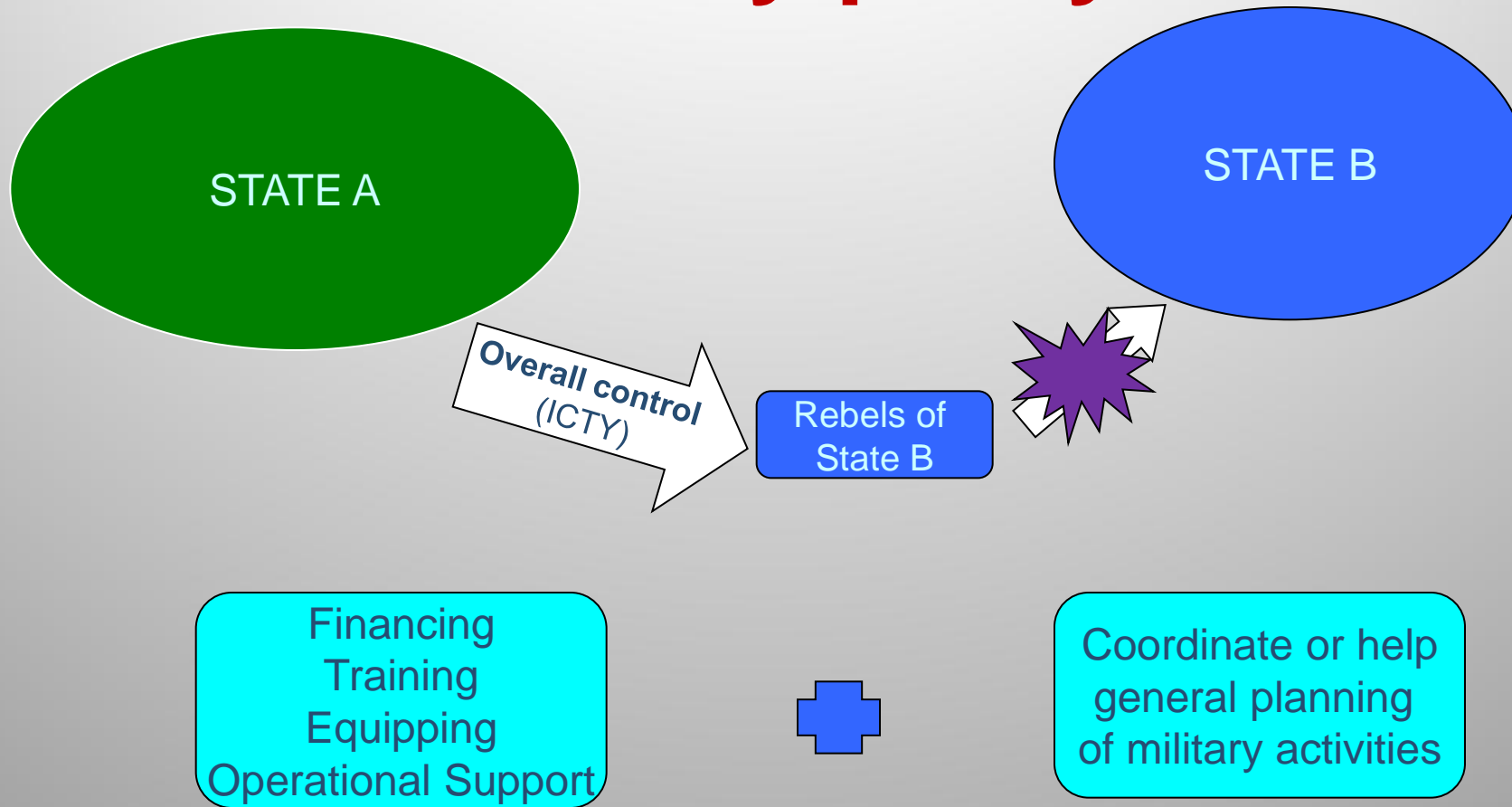
- all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets no armed resistance (Common article 2 GC)
- Hague Regulations of 1907 and GCIV (section III – Art. 47-78)

Intervention of a State in a pre-existing NIAC in support of non-State party



Armed conflict with "double classification"

IAC "by proxy"



AP I Art. 1(4) IACs

- Article 1 -- General principles and scope of application

3. This Protocol, which supplements the Geneva Conventions of 12 August 1949 for the protection of war victims, shall apply in the situations referred to in Article 2 common to those Conventions.

4. The situations referred to in the preceding paragraph include armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist régimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.

NON-INTERNATIONAL ARMED CONFLICTS

1. Common Article 3 of the GCs
2. AP II (1) conflicts
3. Foreign military intervention in NIAC in support of a State party to the conflict

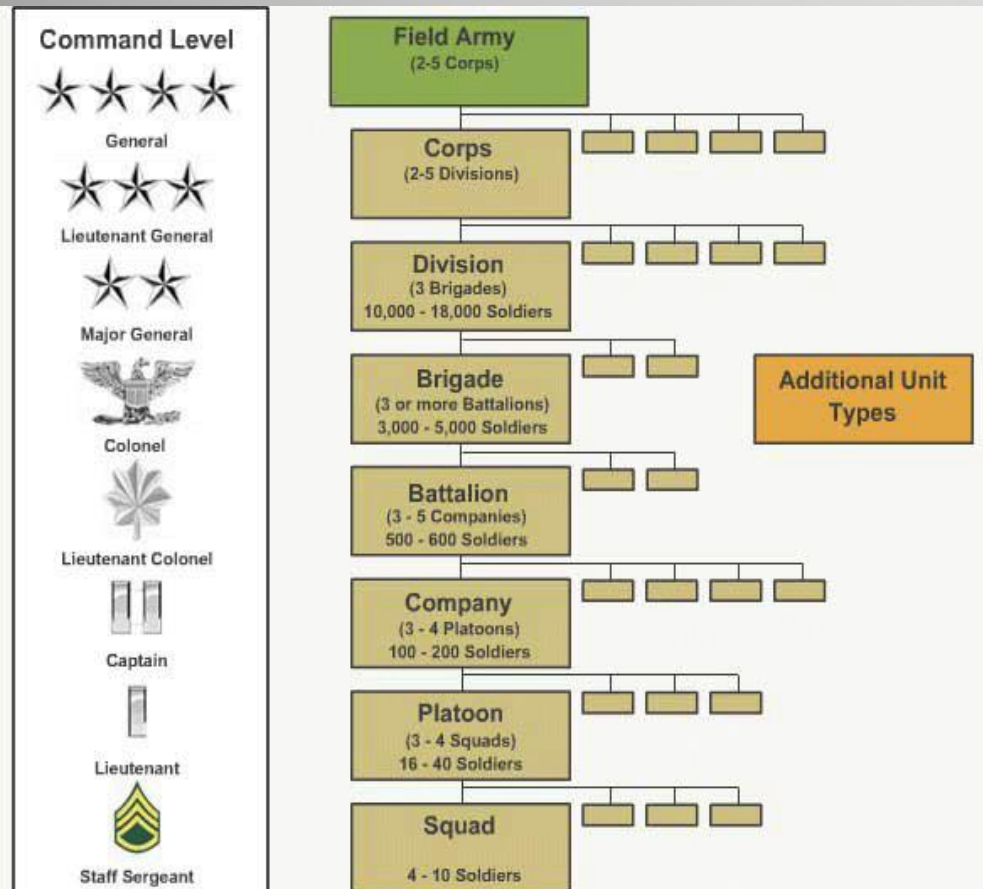
Common Article 3:

“armed conflict not of an international character”



NIAC: indicators for the criterion of organization of the parties

- **Indicative factors of organization of the armed groups:**
 - hierarchical structure and chain of command;
 - capacity to plan and launch coordinated military operations;
 - capacity to recruit, train and equip new combatants;
 - existence of an internal regulation or a code of conduct;
 - rebel leaders have a minimum capacity to control the members of the group and thus to ensure respect of IHL;
 - territorial control.

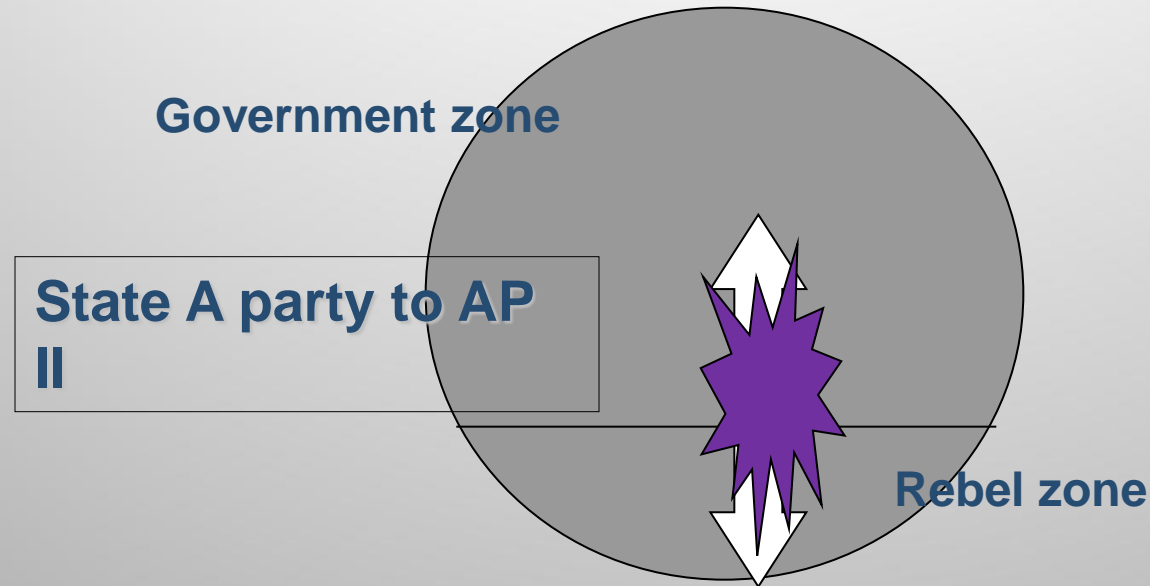


NIAC: indicators for the criterion of intensity of the violence



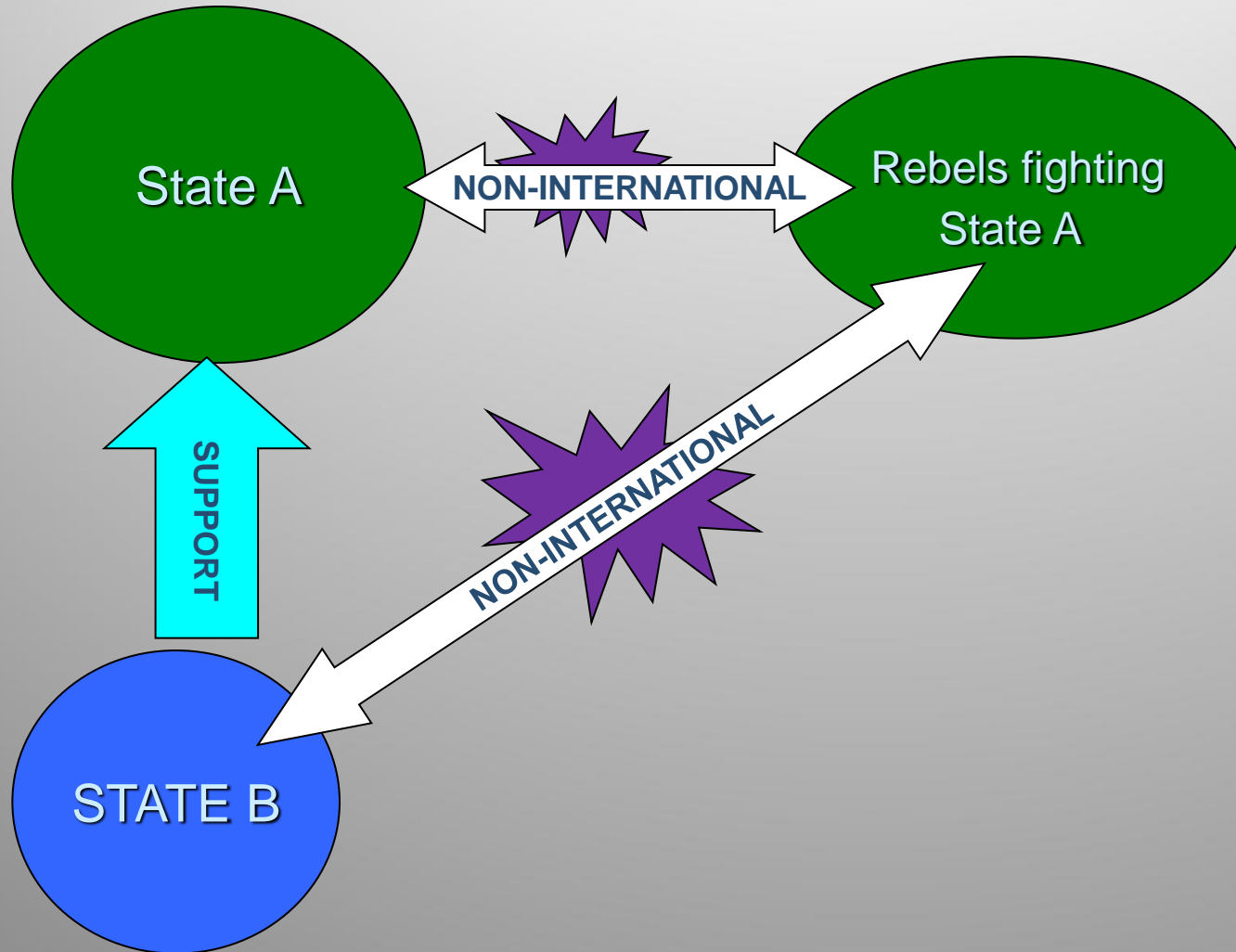
- **Indicative factors of intensity of the violence:**
 - number, duration and gravity of the armed confrontation?
 - number of fighters and types of forces involved (police? armed forces?)?
 - means used (types of weapons)?
 - number of victims (including civilian victims)?
extent of the damages caused?
 - effects of the violence on the civilian population (displacement?) => indirect indicator

NIAC according to Additional Protocol II



- armed conflict in the territory of a State between **armed forces of this State and 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 operation and to implement the Protocol Art.1(1) AP II**

Foreign military intervention in NIAC in support of government



Foreign military intervention in NIAC in support of government

Third State or multinational forces can become Party to a NIAC in two ways:

1. Application of the **classical criteria for NIAC**, in particular intensity criterion
2. Even if the intensity criterion is not fulfilled ('support based approach'), if the third party undertakes military operations
 - related to the conduct of hostilities in the context of that NIAC
 - in support of a State party to that pre-existing conflict;
 - pursuant to an official decision by the third State to support a party involved in that pre-existing conflict.





AFGHANISTAN

Administrative Divisions









End of Armed Conflict

- IAC:
 - Traditionally a formal declaration like a peace treaty
 - “General close of military operations” (reasonable interpretation)
- NIAC ends when a “peaceful settlement” has been reached
 - One party no longer exists
 - Lasting cessation in armed confrontations without real risk of resumption
 - Role of ceasefire, armistice, or peace agreement

Questions?

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It is a non-
international
internationalised
transborder armed
conflict



ICRC lawyer

It's a big
mess...



ICRC delegate