

War of Terrorism in West Africa and the Sahel: A Legal Analysis of Correlation Between Armed Conflicts and Global Terrorism

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Abstract

Terrorism in West Africa and the Sahel has evolved from isolated criminal acts into organised and sustained violence that increasingly resembles armed conflict. Groups such as Boko Haram, the Islamic State West Africa Province (ISWAP), Jama'at Nusrat al-Islam wal-Muslimin (JNIM) and the Islamic State in the Greater Sahara (ISGS) have established command structures, exercised territorial influence, conducted prolonged military operations and engaged state armed forces on a continuing basis. These developments have generated legal uncertainty regarding the relationship between international humanitarian law and international criminal law in the regulation of terrorism. This article examines whether contemporary terrorist violence in West Africa and the Sahel satisfies the legal requirements for classification as a non-international armed conflict under international humanitarian law. The study adopts a doctrinal legal research methodology based on the analysis of the Geneva Conventions of 1949, the Additional Protocols, international criminal law instruments, judicial decisions, regional legal frameworks and relevant scholarly literature. It argues that the legal classification of violence should depend on objective criteria, particularly the organisation of the armed group, the intensity of hostilities and the duration of the conflict, rather than the political or descriptive label attached to the perpetrators. The article further examines the interaction between international humanitarian law and counter-terrorism law, identifies doctrinal and practical challenges in the existing legal framework and considers the implications for civilian protection, humanitarian access, detention, accountability and military operations. It concludes that where terrorist organisations satisfy the established legal threshold for non-international armed conflict, international humanitarian law should apply concurrently with international criminal law and domestic counter-terrorism legislation. The paper recommends greater legal clarity, harmonisation of applicable legal regimes and strengthened regional cooperation to improve the protection of civilians and the effectiveness of responses to terrorism in West Africa and the Sahel.

Keywords: Terrorism; Armed Conflict; International Humanitarian Law; West Africa; Sahel; Non-International Armed Conflict.

Introduction

Armed conflict has remained part of international relations for centuries. The destructive effects associated with warfare prompted the development of international humanitarian law through the Hague Laws, the Geneva Conventions of 1949, their Additional Protocols and related international legal instruments. These legal regimes regulate the conduct of parties during armed conflict, protect civilians and persons who are no longer participating in hostilities and impose limits on the methods and means of warfare (Geneva Conventions,

1949). International law has also established principles governing the protection of civilian populations, the treatment of prisoners of war, humanitarian access and accountability for violations committed during armed conflicts. Contemporary terrorism has altered the pattern of violence witnessed in many parts of the world. Terrorist organisations no longer confine themselves to isolated attacks directed at civilian populations. Several of these groups possess organised command structures, occupy territory, launch sustained military operations, attack government forces and seek political authority over populations and territory. Despite these characteristics, many scholars and governments continue to distinguish terrorism from armed conflict by treating terrorist violence as an internal security matter to be addressed through domestic criminal law and police powers rather than the legal framework governing armed conflict (Saul, 2006; Werle & Jessberger, 2014). This legal position has generated continuing debate concerning the relationship between terrorism and the law of armed conflict, particularly where terrorist organisations conduct prolonged military campaigns resembling conventional warfare.

The experience of several regions revealed the scale of this challenge. Hezbollah in Lebanon, Hamas in Palestine, the Houthis in Yemen and the Taliban in Afghanistan have each exercised varying degrees of territorial influence while engaging in prolonged hostilities against state authorities or foreign forces (Khwaileh, 2026). These developments have generated legal questions concerning the classification of terrorist violence, the applicability of international humanitarian law and the obligations of states confronting organised armed groups whose objectives extend beyond criminal activity to the acquisition of political authority and territorial control. The security situation in West Africa and the Sahel presents one of the clearest examples of this development. Terrorist organisations operating in the region have expanded their territorial presence, increased attacks against military formations and civilian communities and challenged the authority of national governments. Many of these organisations maintain ideological, operational, or organisational links with either the Islamic State (ISIS) or al-Qaeda (Raineri & Martini, 2017). Their campaigns involve coordinated assaults, occupation of communities, mass killings, abductions, destruction of public infrastructure and attempts to establish political and religious authority over territories under their influence.

In Mali, Jama'at Nusrat al-Islam wal Muslimin (JNIM) functions as an affiliate of al-Qaeda, while the Islamic State in the Greater Sahara (ISGS) operates as an affiliate of ISIS (Council on Foreign Relations, 2026; Postings, 2025). Burkina Faso has witnessed the activities of the same organisations, with JNIM aligned to al-Qaeda and ISGS aligned to ISIS (Council on Foreign Relations, 2026). In Nigeria, the Islamic State West Africa Province (ISWAP), an ISIS affiliate and Boko Haram, which has historically maintained links with al-Qaeda, continue to wage violent campaigns directed at overthrowing the existing political order and establishing governance based on their interpretation of Islamic law (Raineri & Martini, 2017). Their objectives extend beyond criminal violence and reflect organised armed campaigns directed at replacing state authority with their own political and ideological rule. The humanitarian consequences of these activities continue to increase throughout the region. The abduction of more than 300 persons in Borno State by the Islamic State West Africa Province (ISWAP) and the kidnapping of more than 200 school children and teachers in Oyo State, Nigeria, renewed concerns regarding the growing threat posed by terrorist organisations operating in West Africa and the Sahel (Business Day Nigeria, 2026; Vanguard, 2026). These incidents demonstrate the continuing capacity of terrorist groups to conduct coordinated attacks against civilian populations, educational institutions and local communities, producing deaths, displacement, psychological trauma and disruption of economic and social life.

The 2026 Global Terrorism Index reported that the Sahel accounted for more than 70 per cent of terrorist attacks recorded worldwide. Countries identified in the report include Nigeria, Mali, Burkina Faso, Niger, Yemen, Syria, Lebanon, Palestine and Iran (Institute for Economics & Peace, 2026). According to the report, the deadliest terrorist attack occurred in Burkina Faso on 8 October 2025, when Jama'at Nusrat al-Islam wal-Muslimin (JNIM) attacked a military base at Djibo in Soum Province, killing more than 120 soldiers, while about 30 others were reported missing (Institute for Economics & Peace, 2026). The second and third deadliest attacks also occurred in Burkina Faso on 1 April, 3 April and 11 May 2025, when attacks in Sourou Province resulted in the deaths of more than 200 persons and extensive destruction of residential buildings and public infrastructure (BBC Monitoring, 2025; Human Rights Watch, 2025). JNIM remains an affiliate of al-Qaeda operating in Burkina Faso and Mali (ADF Magazine, 2026). The fourth deadliest terrorist attack identified in the report occurred in the Tillaberi Region of Niger Republic, where more than 71 persons were killed during an assault carried out by the Islamic State-Sahel Region (ISSR) (Hart International, 2026). Nigeria also experienced severe attacks during the same period. On 5 September 2025, terrorists attacked Darajamal Village in Bama Local Government Area of Borno State, killing 58 civilians and five soldiers (Punch, 2026). Boko Haram also attacked Mallam Karanti and Kwantandashi villages in Kukawa Local Government Area of Borno State, resulting in the deaths of 57 persons, while more than 70 others remained missing at the time of reporting (Business Day, 2025).

Reports issued by the United Nations identify West Africa and the Sahel as the present centre of terrorist violence, with Nigeria and Burkina Faso recording some of the highest levels of terrorist activity in the region (UNODC, 2024; UNSC, 2025). Casualty figures associated with terrorist attacks recorded in the region exceed those reported in the continuing Russia-Ukraine armed conflict during the corresponding period (United Nations Human Rights Monitoring Mission in Ukraine, 2026). Apart from fatalities, terrorist violence has resulted in widespread destruction of homes, schools, healthcare facilities, roads and other public infrastructure, while large numbers of civilians have been displaced from their communities. These developments have intensified legal debate concerning whether organised terrorist campaigns possessing the characteristics of sustained military operations should continue to be treated solely as criminal conduct or whether they also satisfy the legal criteria applicable to armed conflicts under international humanitarian law. The persistence of terrorist violence in West Africa and the Sahel calls for careful legal examination of the relationship between international humanitarian law and terrorism. Existing legal classifications continue to influence the rules governing military operations, humanitarian protection, detention, accountability and state responsibility. The aim of this study is to examine the legal relationship between armed conflict and terrorism in West Africa and the Sahel by analysing whether the nature, organisation, intensity and objectives of terrorist violence justify its treatment under the legal framework governing armed conflicts.

Terrorism: History and Theory

Terrorism is a crime under international and municipal laws. In recent times especially the periods after the 9/11 terrorist attack on the United States, terrorism has acquired the nomenclature of 'globalism' and hence commonly referred to as 'global terrorism'. Global terrorism is so called because the terrorists are in all parts of the world and operating at the same time. Terrorism is one of the major constituent crimes in transnational organized crimes under international criminal law. For instance, elements of terrorism can be found in crimes against humanity, genocide, war crimes and aggression. These elements also exist in armed conflicts. Terrorism was supposed to be included within the jurisdiction of the ICC under the

Rome Statute but was later dropped as it was voted against by majority of signatories (Werle & Jessberger, 2014).

Terrorism in the Sahel and West Africa sub region is a war situation. Terrorism is prohibited under international law and can be treated as war crimes or crimes against humanity depending on the facts. Thus Article 51(2) of the Additional Protocol I (Protocol Additional I, 1977, art. 51(2)) and Article 13(2) of the Additional Protocol II (Protocol Additional II, 1977, art. 13(2)) provide that 'acts of threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.' In the case of *Prosecutor v. Galić* (2003), the tribunal was of the view that terror against civilian population was a criminal responsibility which would arise from death or serious bodily injury of civilians (ICTY, 2003). For the purposes of this work, we would rely on the definition of terrorism by the Malabo Protocol of 2014 (African Union, 2014). Article 28G defines terrorism thus:

- i. Any act which is a violation of the criminal laws of a State Party, the laws of the African Union or a regional economic community recognized by the African Union, or by international law and which may endanger the life, physical integrity or freedom of, or cause serious injury or death to, any person, any number or group of persons or causes or may cause damage to public or private property, natural resources, environmental or cultural heritage and is calculated or intended to intimidate, put in fear, force, coerce or induce any government, body, institution, the general public or any segment thereof, to do or abstain from doing any act, or to adopt or abandon a particular standpoint, or to act according to certain principles; or disrupt any public service, the delivery of any essential service to the public or to create a public emergency; or create general insurrection in a State.
- ii. Any promotion, sponsoring, contribution to, command, aid, incitement, encouragement, attempt, threat, conspiracy, organizing, or procurement of any person, with the intent to commit any act referred to in sub-paragraph (A)(1) to (3).
- iii. Notwithstanding the provisions of paragraphs A and B, the struggle waged by peoples in accordance with the principles of international law for their liberation or self-determination, including armed struggle against colonialism, occupation, aggression and domination by foreign forces shall not be considered as terrorist acts.
- iv. The acts covered by International Humanitarian Law, committed in the course of an international or non-international armed conflict by government forces or members of organized armed groups, shall not be considered as terrorist acts.
- v. Political, philosophical, ideological, racial, ethnic, religious or other motives shall not be a justifiable defense against a terrorist act (African Union, 2014).

Thus, global terrorism is a crime operate under international criminal law with universal jurisdiction enabling States to make legislations for the punishment of same and also enter into extradition treaties and mutual legal assistance agreements to exchange prosecution and punishment for the offence (Werle & Jessberger, 2014). Terrorism is a *generis* crime that permeates several acts and other international crimes. For instance, the hijack of aircraft or marine vessel (though piracy) would amount to terrorism. Acts of religious extremism such as the activities of the Boko Haram, ISWAP, bandits in Nigeria as well as JNIM and ISGS in Mali and Burkina Faso amounts to terrorism. According to the UN Office on Drugs and Crime in its Handbook (UNODC, 2018), terrorism outside the definition in its 'triangle' theory, is a method of coercion that utilizes or threatens to utilize violence in order to spread fear and thereby attain political or ideological goals. This definition of terrorism encompasses global terrorism.

The history of terrorism is the history of armed conflicts. Thus, apart from the War of Solferino that gave birth to the Hague Laws and the ICRC (ICRC, 2010), the history of terrorism goes back to the history of armed conflicts. Global terrorism in the 19th century

emerged during the French Revolution (between 5th September 1793 to 27th July 1794) during which period revolutionists directed attacks and harsh measures against citizens suspected of being enemies of the revolution (Andress, 2006). In turn, opposition to Napoleon invasion of Spain Peninsula led to the terminology the 'guerrilla' derived from the Spanish word Guerra meaning 'little war' (Murray, 2004). The assassination of Archduke Franz Ferdinand of Austria and his wife by Gavrilo Princip of Serbia in Sarajevo is regarded as an act of terrorism of the 20th century which sparked the 1st World War (Albertini, 1953). But before then, the assassination of Czar Alexander II of Russia in 1881 by the Narodnaya Volya group in Russia has created a lot of tension in Europe that was crystalizing (Yarmolinsky, 2014).

The symbol of terror then was assassination. Thus, modern global terrorism can be traced to the 19th century revolutionary radicalism and the emergence of groups described as anarchist, collective anarchist and/or anarcho-communist groups. These groups were influenced by the works of Pierre-Joseph Proudhon, a Frenchman and the author of *What is Property?* (Proudhon, 1994), Karl Marx of Germany (Marx & Engels, 2012). The Russian anarchist, Karl Heinzen popularised revolution and introduced the use of violence and mass murder as a means of political change and also coined the term *Freiheitskämpfer* meaning freedom fighter (Heinzen, 1853). The radicalism of German revolutionists and the anarchists from other parts of Europe contributed significantly to the World War I. After the Treaty of Versailles that ended the World War I, the series of assassination continued with the killing of King Alexander I of Yugoslavia and the French Foreign Minister in 1934 led to the making of the Convention on Terrorism in 1937 (League of Nations, 1937).

The Convention defined terrorism in Article 1(2) as 'criminal acts directed against a State' and 'such acts intended or calculated to create a state of terror in the minds of particular persons, or a group of persons or the general public'. But on the ideological/religious perspective, the revolution of Sultan Suleiman of Ottoman Empire is significant here. Also known as Suleiman the Magnificent or Suleiman the Lawgiver or Suleiman the Great or Suleiman I, this ruler of the Ottoman Empire who reigned between 1520 and 1566 introduced a combination of extreme religious ideology and war as means and method of armed conflict (Inalcik, 1997). Sultan Suleiman sought to impose religion into the heart of Europe through the instrumentality of conquest and these succeeded to some extent as most part of modern Turkey forms a territory of the former Ottoman Empire (Finkel, 2006). For although several Popes reigned during this period, it was Pope Pius IV (1559-1565), that countered the religious extremism and revolution of Sultan Suleiman by forming what was termed a 'Holy League' and this was led by Don Juan of Austria, a devout knight of the Holy See (Setton, 1984). This league was a combine team of the then world to counter what was Jihad of that period. Pope St. Pius IV was the supreme religious ruler of then Europe.

Thus most, if not all terrorist groups from al-Qaeda to ISIS and their affiliates derive inspiration from Ottoman Empire and especially Sultan Suleiman (Moghadam, 2008). The main aim is Jihad aimed at conquering the world. In the conceptual aspect, there is nothing really wrong with seeking to conquer the world through ideology but the problem is the associated violence and forceful conversion. This act of extreme violence by some of these jihadist's groups is the basis for terrorism.

Terrorism as Contemporary Armed Conflict

The negative effect of global terrorism is a critical factor destroying Nigeria, the West Africa Sub Region and the Sahel. For although literatures are scarce in the area of analyses, some authors in review of the concept of armed conflicts and terrorism are of the firm view that global terrorism is a major cause of political, economic and social instability in West Africa and the Sahel. According to Adetuba (2015), the threats to national and regional security in

West Africa are attributable to the activities of jihadist movements in the region. From his analysis, most of these terrorists operating in Nigeria and West Africa are foreigners using transnational organized crimes syndicates as platform to carry on terrorist activities. Thus, the jihadists engage in transnational or cross border crimes, aimed to take over the reigns of government of countries to entrenched anarchy and criminality. This view represents the perception of scholars who believe that terrorism is an offshoot of transnational organized crimes. Thus, they contribute to the evolution of the concept of correlation between armed conflicts and terrorism.

The relationship between terrorism, transnational criminality and armed conflict has also been recognised in international judicial practice. In *Prosecutor v. Tadić* (1995), the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia (ICTY) recognised that armed conflicts may arise from protracted violence involving organised armed groups within a State, thereby providing the legal framework for assessing contemporary non-international armed conflicts involving insurgent and terrorist organisations. The Tribunal's decision remains one of the foundational authorities distinguishing ordinary criminal violence from armed conflict under international humanitarian law. According to Kokpan and Osigwe (2023), the terrorist activities in Nigeria is a form of armed conflict. According to them, Boko Haram and ISWAP operating in Northern Nigeria can be classified into belligerents as defined under Additional Protocol 1 to the Geneva Conventions. They premised their averment on the fact that these terror groups possess all the qualifications of a belligerent in armed conflicts such as having a command structure, having sufficient manpower, distinctive sign, bearing arms openly, wearing uniforms and being able to confront the Nigeria military with sophisticated weapons. The above averment is correct in material particulars and points to the close relationship between the present-day armed conflicts and terrorism. Considering the qualities set out by the authors, no one is left in doubt that terrorists especially in Nigeria are out for war with the intent of capturing State powers and imposing their religious and political ideology on the citizens.

The classification of organised armed groups under international humanitarian law has been examined by international criminal tribunals. In *Prosecutor v. Boškoski and Tarčulovski* (2008), the ICTY Trial Chamber held that determining whether violence amounts to an armed conflict requires an assessment of both the intensity of the conflict and the organisation of the armed group involved. The Tribunal considered factors including the existence of a command structure, disciplinary rules, ability to conduct military operations, access to weapons, and capacity to implement military strategy. These criteria provide legal support for analysing groups such as Boko Haram and ISWAP where questions arise concerning their organisation and operational capability. Lavoyer (2006) had stated that terrorism is a new form of global armed conflict. He asserts that 'terrorist attacks including the attacks of September 11, 2001 as well as counter-terrorist activities were part of a global armed conflict in the legal sense.' His view represents the post 9/11 terrorist attacks where the civilized countries took a strong view to regard terrorist acts as acts of war that must be seen as such and so dealt with. The nagging issue associated with this view is whether congressional approval will be required as in event of armed conflicts under the Geneva Conventions.

The legal characterisation of terrorism as an armed conflict was considered after the September 11 attacks in cases arising from detention operations conducted during the United States "War on Terror." In *Hamdan v. Rumsfeld* (2006), the Supreme Court of the United States held that Common Article 3 of the Geneva Conventions applied to persons detained in the conflict with Al-Qaeda, recognising that the conflict involved a non-international armed conflict for purposes of international humanitarian law. The decision confirmed that counter-terrorism operations may raise issues of international humanitarian law where the level of

organisation and intensity required for armed conflict exists. Thus Graham (2006) disagreed with the above position that global terrorism is global armed conflict and asserted that global war on terrorism, seen from the microscope of war and founded on the perceived perception that there is a global war of terrorism which is 'simply hyperbolic fiction; a good political sound bite, but nothing more'. In the view of Graham hypothesis will raise issues of jus ad bellum as global armed conflict against terrorism is an undefined phenomenon. This view does not represent the true state of what international law ought to be in this area of law. That global terrorism is a war against civilization is beyond doubt. As earlier pointed out, these terrorists possess all the qualities prescribed under Additional Protocol 1 to be regarded as belligerent groups. In any case, these terrorist groups leave no one in doubt that they are on 'holy war.'

The debate concerning whether terrorism constitutes a global armed conflict has also been addressed by international courts. In *Prosecutor v. Kunarac, Kovač and Vuković* (2001), the ICTY emphasised that the existence of an armed conflict is determined by factual circumstances, including the intensity of violence and organisation of the parties, rather than political descriptions or declarations by States. This principle supports the view that each terrorist campaign must be assessed according to objective legal criteria rather than political characterisation alone. According to Wang et al. (2024), total yearly conflicts between Boko Haram and the armed forces of Nigeria is projected at 4500 with fatalities totalling above 10,000 each year (that was as of 2021-2022). This is equivalent to fatalities in Russia-Ukraine war. They assert that the world had not paid much attention to Nigeria as is the case in Ukraine and this is because of international politics. Thus, the conclusion of these authors arising from their empirical studies would be that both terrorism and armed conflict are different sides of the same coin. The theoretical studies of the above scholars seem largely credible considering the data analyses made and empirical formulae adopted.

The scale of violence associated with Boko Haram and related armed groups in Nigeria has received recognition in international judicial and institutional assessments. In *Prosecutor v. Lubanga Dyilo* (2007), the International Criminal Court (ICC) recognised that organised armed groups involved in prolonged violence and possessing military structures may fall within the scope of international humanitarian law where the required conditions of organisation and intensity are satisfied. Although the case concerned the Democratic Republic of Congo, the principles developed by the Court are relevant to assessing armed groups involved in contemporary African conflicts. The Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia (ICTY) in *Prosecutor v. Tadić* (1995) stated that armed conflict exists whenever there is a resort to armed force between states or protracted armed violence between governmental authorities and organized armed groups within a state. This definition has become one of the most authoritative judicial interpretations of armed conflict under international humanitarian law. The ICTY Appeals Chamber in *Prosecutor v. Tadić* (1995) rejected the argument that only traditional interstate wars qualify as armed conflicts and confirmed that internal conflicts involving organised armed groups may also fall within the legal framework of international humanitarian law.

Armed conflict or war is politics by other means. Thus, as long as politics exists in human affairs, there must be conflicts, which sometimes will result in the use of arms. Provided politics is who get what, when and how; (Lasswell, 1978) in this process of getting what, when and by what means, conflicts usually arise where final resort may be had to arms. The relationship between political objectives and armed violence has also been recognised in international criminal law. In *Prosecutor v. Katanga and Ngudjolo Chui* (2008), the ICC examined the conduct of organised armed groups operating within political and territorial disputes and confirmed that international humanitarian law applies where violence reaches the required threshold of organisation and intensity. The decision demonstrates that armed groups

may engage in conflicts connected with political objectives while still being subject to international criminal responsibility.

Armed conflicts in West Africa and the Sahel have had an overreaching effect on the people and economies of Nigeria, West Africa and the Sahel. These areas of the world have become the hub of armed conflicts and citizens hereto have suffered untold hardship due to the negative effects of wars coupled with the failure of their governments to perform simple governmental functions, corruption, lack of good governance, poor economy, ethnicity. The humanitarian consequences of armed conflicts involving non-state armed groups have been repeatedly recognised by international courts and institutions. In *Prosecutor v. Galić* (2003), the ICTY held that attacks affecting civilian populations during armed conflict constitute serious violations of international humanitarian law and confirmed that civilians remain protected despite the existence of military operations. The judgment reinforces the principle that armed conflicts create extensive humanitarian consequences for civilian populations. Similarly, the International Court of Justice in *Democratic Republic of the Congo v. Uganda* (2005) recognised that violations of international humanitarian law may occur during conflicts involving foreign forces and armed groups operating within a State. The Court emphasised the responsibility of States for conduct connected with armed conflicts and the obligation to respect international humanitarian law. Two major types of armed conflicts are:

- 1. International armed conflicts:** This takes place between two States, for instance, the war between Russia and Ukraine. Also, international armed conflict could occur where there are more than two States or in a situation of many States engaged in armed conflict, for instance the 2nd World War. Further, the Israeli-Arab War of 1967 would qualify as multi-States war. Also, the Israeli-Palestinian War is armed conflict of international nature. The USA/Israel-Iran War is also international armed conflict. Furthermore, an armed conflict which started as internal armed conflict could become international if a foreign power intervenes or joins in favour of one side. The classification of an armed conflict as international where States are involved has been recognised as a fundamental principle of international humanitarian law. In *Prosecutor v. Tadić* (1995), the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia (ICTY) held that an armed conflict is international when it takes place between two or more States. The Tribunal further recognised that an originally internal armed conflict may become international where another State intervenes with its armed forces or where organised armed groups act on behalf of another State. This decision remains one of the leading judicial authorities on the distinction between international and non-international armed conflicts. The Appeal Chambers in the *Tadić* case stated that 'it is undisputable that an armed conflict is international if it takes place between two or more states. In addition, in case of an internal armed conflict breaking out on the territory of a state, it may become international, or depending upon the circumstances, be international in character alongside an internal armed conflict if; (i) another State intervenes in that conflict through its troops, or alternatively if, (ii) some of the participants in the internal armed conflict act on behalf of that other State' (*Prosecutor v. Tadić*, 1995). The principle established in *Tadić* has subsequently influenced international courts in determining State involvement in armed conflicts. In *Nicaragua v. United States of America* (1986), the International Court of Justice considered the question of State responsibility for armed groups operating against another State and distinguished between direct military intervention and situations involving assistance or support to armed groups. The Court held that the provision of support to armed groups does not automatically amount to direct armed attack unless the required legal threshold is satisfied.

2. Non-international or internal armed conflict (commonly called civil war): A non-international armed conflict, also called a civil war, occurs inside a State. It may involve the government and one or more rebel groups or fighting between rebel groups. Common Article 3 of the four Geneva Conventions applies to such conflicts and sets minimum humanitarian rules. Examples include the Nigerian Civil War, the Darfur conflict, the Rwandan War, the Liberian Civil War and the Sierra Leone conflict. The legal requirements for determining the existence of a non-international armed conflict were developed by international criminal tribunals. In *Prosecutor v. Tadić (1995)*, the ICTY Appeals Chamber defined a non-international armed conflict as existing where there is protracted armed violence between governmental authorities and organised armed groups or between such groups within a State. The decision established that internal conflicts are not merely matters of domestic law but may attract international humanitarian law obligations where the required level of organisation and intensity exists. The criteria of organisation and intensity were further developed in *Prosecutor v. Boškoski and Tarčulovski (2008)*, where the ICTY Trial Chamber considered factors including the existence of a command structure, ability to conduct military operations, territorial control, access to weapons, recruitment capacity and the ability of the armed group to implement military strategies. These factors provide guidance in distinguishing organised armed conflicts from isolated criminal violence. Another form of armed conflict is asymmetric or hybrid warfare. It involves irregular methods, non-state actors and uncertainty over the status of fighters and civilians (Lawitang et al., 2025). Geiß (2006) describes it as fourth-generation or non-linear warfare. Terrorist violence may fall into this category.

The changing nature of warfare involving non-State armed groups has been recognised by international humanitarian law institutions. In *Prosecutor v. Haradinaj, Balaj and Brahimaj (2008)*, the ICTY examined armed groups operating in a non-international armed conflict and considered whether their organisation and military capability were sufficient to bring the conflict within the scope of Common Article 3 of the Geneva Conventions. The Tribunal emphasised that the legal classification depends on factual circumstances rather than the political description given by the parties. Common Article 3 prohibits murder, torture, cruel treatment, hostage-taking, degrading treatment and sentencing or executions without a properly constituted court and judicial guarantees recognised under international law (Geneva Conventions, 1949, Common Art. 3(1)). The binding nature of Common Article 3 as a minimum humanitarian standard was affirmed in *Hamdan v. Rumsfeld (2006)*, where the Supreme Court of the United States held that Common Article 3 applied to the conflict involving Al-Qaeda detainees and established that persons involved in non-international armed conflicts remain protected by fundamental humanitarian guarantees. The International Court of Justice has also recognised the continuing applicability of humanitarian obligations during armed conflicts. In *nuclear weapons Advisory Opinion (1996)*, the ICJ confirmed that international humanitarian law contains fundamental principles applicable during armed conflicts and that States remain bound by humanitarian obligations even during periods of military necessity.

Challenges in Combating Terrorism in West Africa and the Sahel

Despite the increasing scale and sophistication of terrorist activities in West Africa and the Sahel, significant legal and scholarly uncertainties continue to surround the relationship between terrorism and armed conflict (ICRC, 2015; Saul, 2006). These uncertainties have hindered the development of an effective legal framework for addressing contemporary terrorist violence (ICRC, 2015). Specifically, the study identifies the following gaps:

- 1. Absence of Legal Consensus on the Status of Terrorism as Armed Conflict:** International law draws a distinction between armed conflict and terrorism. Armed conflict is regulated by international humanitarian law, while terrorism is addressed through international criminal law, counter-terrorism treaties and domestic legislation (ICRC, 2015; Saul, 2006). This distinction has generated disagreement among jurists, courts and writers on whether sustained terrorist violence that possesses the characteristics of war should remain under the ordinary criminal justice system or be treated as a form of armed conflict (Sassòli, 2006; ICRC, 2015). In *Prosecutor v. Tadić (1995)*, the ICTY Appeals Chamber established that the determination of armed conflict depends on objective factors such as the intensity of violence and the organisation of armed groups rather than the political description attached to the conflict. The decision did not classify terrorism generally as armed conflict but provided the legal test through which violence involving non-State actors may be assessed under international humanitarian law. Similarly, in *Prosecutor v. Kunarac, Kovač and Vuković (2001)*, the ICTY held that the existence of an armed conflict is determined by the factual circumstances prevailing at the relevant time and not by whether the parties themselves describe their actions as war or terrorism. This reinforces the continuing legal debate regarding whether certain terrorist campaigns satisfy the established criteria for armed conflict under international humanitarian law.
- 2. Inadequacy of Existing Legal Responses to Terrorist Violence:** States in West Africa and the Sahel have relied mainly on criminal prosecution, policing and domestic counter-terrorism legislation to respond to terrorist attacks (ICRC, 2015). Despite these measures, terrorist organisations continue to expand their territorial influence, recruit members, attack military formations and occupy communities in several parts of the region. This situation raises questions about whether existing legal responses correspond with the nature and intensity of the violence (ICRC, 2015). The difficulty of responding to prolonged terrorist violence has also been considered by international courts. In *Hamdan v. Rumsfeld (2006)*, the Supreme Court of the United States considered whether counter-terrorism operations involving Al-Qaeda could be governed solely by ordinary criminal law or whether international humanitarian law obligations applied. The Court held that Common Article 3 of the Geneva Conventions applied, recognising that certain counter-terrorism operations may occur within the framework of a non-international armed conflict. The International Criminal Court has similarly examined situations where States confront organised armed groups conducting prolonged violence. In the Situation in the Democratic Republic of the Congo, proceedings before the ICC demonstrated that armed groups may attract international criminal responsibility where their activities occur within the context of an armed conflict satisfying the requirements of international humanitarian law.
- 3. Uncertainty over Legal Classification of Terrorist Organisations:** Many terrorist organisations operating in Nigeria, Mali, Burkina Faso and neighbouring States possess organised command structures, identifiable leadership, trained fighters, sophisticated weapons, territorial influence and the ability to engage government armed forces over a prolonged period. These characteristics resemble those associated with organised armed groups recognised under international humanitarian law (ICRC, 2015). Despite these similarities, uncertainty remains regarding their legal status under the Geneva Conventions and the Additional Protocols (ICRC, 2015; Sassòli, 2006). In *Prosecutor v. Boškoski and Tarčulovski (2008)*, the ICTY Trial Chamber identified factors relevant to determining whether a group qualifies as an organised armed group, including the existence of a

command structure, disciplinary rules, ability to conduct coordinated military operations, access to weapons and the capacity to implement military strategy. These criteria are relevant when examining terrorist organisations that possess military-style structures. In *Prosecutor v. Lubanga Dyilo* (2012), the ICC examined the organisation and structure of armed groups and confirmed that the existence of a military hierarchy and capacity to conduct sustained operations are relevant factors in determining the existence of an armed conflict.

4. **Uncertainty Regarding the Scope of International Responsibility:** Large parts of West Africa and the Sahel continue to experience persistent terrorist attacks that have displaced civilians, destroyed property, weakened public institutions and threatened the authority of governments. Questions remain concerning the circumstances under which the international community may lawfully intervene where a State lacks the capacity to protect its population from organised terrorist violence (ICRC, 2015). The responsibility of States and the international community during situations involving serious violence has been considered by international courts. In *Democratic Republic of the Congo v. Uganda* (2005), the International Court of Justice examined obligations arising during armed conflict and confirmed that States involved in conflict situations remain bound by international humanitarian and human rights obligations.
5. **Separation Between International Humanitarian Law and International Criminal Law in the Regulation of Terrorism:** International humanitarian law regulates the conduct of parties engaged in armed conflict, while international criminal law and counter-terrorism conventions criminalise terrorist acts and establish rules relating to prosecution, extradition and mutual legal assistance (ICRC, 2015). The separation between these branches of international law has created uncertainty regarding the legal regime applicable to terrorist organisations that conduct sustained military-style operations (Saul, 2006; ICRC, 2015). The relationship between international humanitarian law and international criminal law was examined in *Prosecutor v. Galić* (2003), where the ICTY confirmed that serious violations committed during armed conflict may constitute international crimes subject to individual criminal responsibility. The judgment illustrates how international humanitarian law provides the framework for determining prohibited conduct while international criminal law provides mechanisms for prosecution and accountability.
6. **Absence of a Developed Legal Theory Explaining the Relationship Between Armed Conflict and Terrorism:** Existing literature has examined armed conflict and terrorism as separate fields of study, while discussions concerning their relationship remain limited (Saul, 2006; Sassòli, 2006). Many studies concentrate on counter-terrorism, international criminal responsibility, or the law governing armed conflict without examining whether sustained terrorist violence possesses the legal characteristics of a distinct category of armed conflict. This gap has left unresolved questions concerning the proper legal classification of terrorist organisations engaged in prolonged hostilities against States (ICRC, 2015; Sassòli, 2006). The unresolved relationship between terrorism and armed conflict has been acknowledged in international jurisprudence. In *Prosecutor v. Tadić* (1995), the ICTY recognised that modern conflicts may involve non-State armed groups and that international humanitarian law must respond to changing forms of warfare. However, the decision did not establish that terrorism as a general category automatically constitutes armed conflict, leaving the issue dependent upon factual assessment of each situation.

Conclusion

The pattern of terrorist violence in West Africa and the Sahel has raised legal questions about the relationship between terrorism and the law of armed conflict. Groups such as Boko Haram, ISWAP, JNIM and ISGS have developed organised command structures, held territory and fought state forces over extended periods. These facts require an assessment of whether such violence amounts to a non-international armed conflict under international humanitarian law while leaving individuals liable for terrorist offences under international criminal law. Legal practice still relies heavily on domestic criminal law and counter-terrorism measures, even where the facts satisfy the legal requirements for armed conflict. Classification should depend on the organisation of the parties, the intensity of hostilities and the duration of the fighting, not the description given to an armed group. This determination affects civilian protection, humanitarian relief, detention, accountability and military operations. The situation in West Africa and the Sahel shows the need for legal analysis based on the established rules of international humanitarian law.

Recommendations

Based on the findings of the study, the following recommendations were made:

1. International law should develop clearer criteria for determining when terrorist organisations qualify as parties to a non-international armed conflict by relying on factors such as organisation, command structure, intensity of violence and duration of hostilities through further interpretation by international courts and legal institutions.
2. States in West Africa and the Sahel should adopt legal responses that combine counter-terrorism measures with applicable international humanitarian law obligations by strengthening national legislation, judicial capacity and coordination between security agencies.
3. The legal status of terrorist organisations operating in the region should be examined through the established tests for armed conflict classification by conducting detailed assessments of their operational capabilities, territorial control, leadership structures and patterns of military engagement.
4. Greater protection should be provided to civilians affected by terrorist violence by improving compliance with humanitarian rules, expanding humanitarian access and creating stronger monitoring mechanisms for violations committed during counter-terrorism operations.
5. The relationship between international humanitarian law and international criminal law in addressing terrorism should be clarified by encouraging cooperation among States, international organisations and legal experts to develop consistent rules on prosecution, accountability and battlefield conduct.

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