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Subtype of document:	Actes de conférence
Title:	Is there a need for clarification of the temporal scope of IHL ?
Author zone:	David Frend
Host item entries:	Collegium,
Languages:	English
Abstract:	<p>This contribution presents some observations on the practical application of IHL in the context of the discussion as to whether further clarification is required in this area. By practical application, the Frend is referring to the bridge between the intellectual and academic debate over the temporal scope of IHL and its practice. One could say that the historical approach sought to establish the existence of a war as a matter de jure, whereas, the post-1949 approach sought to establish the existence of an armed conflict, as a matter de facto and make, therefore, IHL applicable. Pragmatism over prescription is, in the view of the author, of assistance to the practitioner. However, moving from a purely legal concept of the existence of war to a pragmatic evaluation of the existence of an armed conflict, as a matter of fact without a concurrent binding judicial arbiter, still provides significant room for policy considerations at the highest State level to come into play. In other words, there is still the possibility of one, or more, parties to a conflict arguing that the conflict has not reached a level of violence, sophistication, intensity or duration as to warrant the label of an 'armed conflict' and that therefore IHL is not applicable.</p>
Authors:	Frend, David Colloque de Bruges : le champ d'application du droit international humanitaire (13e : 18-19 octobre 2012 : Bruges)
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