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Unexplored outcomes of Tadic : applicability of the law of occupation to war by proxy / Tom Gal

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| Document type: | Article |
| Title: | Unexplored outcomes of Tadic : applicability of the law of occupation to war by proxy |
| Author zone: | Tom Gal |
| Host item entries: | Journal of international criminal justice, |
| Languages: | English |
| Abstract: | <p>The Tadic ICTY Appeal judgment (1999) has clarified that certain armed conflicts usually classified as non-international are in fact of an international character when a state controls a non-state armed group. This clarification reaffirms the existence of a sub-type of international armed conflict: wars by proxy (Tadic-type conflicts). It also suggests a different legal analysis of a state's ability to occupy another state's territory using a non-state armed group. However, the ICTY Appeals Chamber has neither examined this possibility in depth (i.e. whether applying the law of occupation in such circumstances is legally feasible or practical) nor assessed the results of this application. This article proposes both theoretical and practical foundations for applying the law of occupation, and specifically Geneva Convention IV, to Tadic-type conflicts. The article tries to identify the advantages of such an application from an international criminal law perspective and suggests adjustments and modifications required to enhance the protection of victims and ensure responsibility for violations of international humanitarian law in such circumstances.</p> |
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| Keyword in English: | MILITARY OCCUPATION CRIMINAL COURT YUGOSLAVIA NON-STATE ACTOR IHL (INTERNATIONAL HUMANITARIAN LAW) CLASSIFICATION OF THE CONFLICT |
| Keyword in French: | OCCUPATION MILITAIRE TRIBUNAL PENAL YOUgoslavie ACTEUR NON ETATIQUE DIH QUALIFICATION DU CONFLIT |
| Go to: | Journal of international criminal justice / Académie de droit international humanitaire et de droits humains à Genève Journal of international criminal justice [Vol. 12, no. 1, March 2014] / Académie de droit international humanitaire et de droits humains à Genève |