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When general international law meets international humanitarian law : attribution of conduct and the classification of armed conflicts / Remy Jorritsma

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Author zone:	Remy Jorritsma
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Abstract:	<p>Case law of the International Court of Justice and the International Criminal Tribunal for the former Yugoslavia reveals different judicial attitudes towards questions of State responsibility and IHL, and their mutual relationship, when classifying situations as international or non-international armed conflicts. This contribution will examine this conflict, or fragmentation, in order to shed light on the question whether IHL, or its interpretation and application, has had any influence on the general international law of State responsibility. By analysing the symbiotic relationship between IHL and State responsibility for purposes of the classification of conflict, it is shown that the case law on this matter, which is often cited as an example of fragmentation, can in fact be reconciled, as long as one recognizes that secondary attribution rules have a certain influence on the scope and application of primary rules of IHL. The impact of IHL on State responsibility law lies in the recognition that primary rules of international law may contain secondary <i>lege speciales</i> rules dealing with the attribution of conduct in times of armed conflict.</p>
Authors:	Jorritsma, Remy
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