CONCLUSION

Our study reveals that international law, as it now stands, provides insufficient guidance to precisely ascertain the end of many armed conflicts as a factual matter (when has the war ended?), as a normative matter (when should the war end?), and as a legal matter (when does (a portion of) the international-legal framework of armed conflict cease to apply in relation to the war?). The current plurality of legal concepts of armed conflict, the sparsity of IHL provisions that instruct the end of application, and the inconsistency among such provisions (sometimes, even within a single legal instrument) thwart uniform regulation and frustrate the formulation of a comprehensive notion of when wars can, should, and do end.

The architects of the 1949 Geneva Conventions left open the possibility, but removed the need, for the subjective and formal political recognition of war. In doing so, they meant to make it easier to discern, as an objective and factual matter, when IHL applied so that it would be harder for states to evade it. That was a laudable goal and an understandable strategic move following the carnage of WWII. And, in respect of many subsequent conflicts, that goal was at least partly realized. But delinking the political recognition of war from its prosecution may also inflict costs. In today’s complex world of armed conflicts, we may be less likely to know armed conflicts when we see them. Not knowing when armed conflicts begin frustrates efforts to know when wars can and should end. And, even if we think we do see them, the objective, fact-based model exposes a weakness where a relevant political authority refuses to recognize the existence of the conflict.

Paradoxically, we now also seem more likely, in certain respects, to see armed conflict everywhere. Amid countless “wars” (on terror, drugs, crime, and the like), the traditional legal framework of armed conflict has lost some of its salience as a marker of exception and emergency. Conversely, aided in part by the ICJ’s approach to the “general law” of human rights giving way at times to the “special law” of armed conflict, the concept of war as an institution of international law seems to be witnessing something of a recrudescence.

Against this backdrop, an array of challenges on the end of conflict emerges. Due to the nature of many modern armed conflicts, it is rarely possible to discern when the last shot has been fired except after the fact, sometimes long after. Moreover, traditional approaches to delineating the scope of application of IHL to an armed conflict—in its material, geographic, personal, and temporal dimensions—are often strained where the enemy is a protean terrorist network with operations spanning...

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578. See supra Sections 2, 4, and 5 outlining the contours of the international-legal concepts of international and non-international armed conflict. Milanovic raises the notion that NIAC is “plural concept” in the sense that NIAC is defined differently in different treaty regimes. Milanovic, *End of IHL Application*, supra note 13, at 179.


580. See Neff, War, supra note 80, at 394.


In extending IHL “until … a peaceful settlement is achieved,”\footnote{582}{See supra Section 5.} the primary judicially-sanctioned general international-legal formulation on the end of applicability of IHL to NIACs privileges legal clarity, the ongoing application of IHL, and continuous war-crimes jurisdiction. Yet the demand for a final and comprehensive peaceful settlement will rarely be met in many contemporary NIACs.\footnote{583}{Even where a peace deal does exist, it may be threatened before the ink dries, as the recent surge in assassinations in Colombia demonstrates. See Nick Miroff, \textit{The frightening issue that could destroy Colombia’s peace deal}, THE WASH. POST, Jan. 3, 2017, https://www.washingtonpost.com/world/the_americas/the-frightening-issue-that-could-destroy-colombias-peace-deal/2017/01/02/3e0a7fec-c304-11e6-92e8-c07f4f671da4_story.html <https://perma.cc/7DE3-MSV2>.
} (Indeed, it may be too high even in traditional IACs—recall that the U.S. and Germany never inked a peace treaty and did not reach a final settlement concerning WWII until 1990.) In the meantime, the continued applicability of IHL allows parties to access international-legal claims to employ harsher and more destructive power than would be tolerated solely under peacetime legal regimes, including IHRL.

Spanning out, we see that current international law does not provide a comprehensive normative theory to know when armed conflicts have achieved their legitimate aims. Nor do we understand what linkages should be drawn between the legal thresholds for the initiation of armed conflict, the political and strategic articulation of the goals of war, and the criteria by which we should determine that armed conflict has ended.

Fleshing out the criteria for the end of war is a considerable challenge, and those looking to do so must address these concerns. Clearly, many of the problems we note here are first and foremost strategic and political.\footnote{584}{See McNair and Watts, \textit{Legal Effects}, supra note 82, at 11 (arguing that “[t]he circumstances of particular wars are so various, and their termination so frequently attended by great political complications, that it cannot be expected that the termination of all wars will fit tidily into any set of legal categories”).}

Yet, as part of a broader effort to strengthen international law’s claim to guide behavior in relation to war and protect affected populations, international lawyers must address the current confusion and inconsistencies that so often surround the end of armed conflict.