

THE EVOLUTION OF INTERNATIONAL HUMANITARIAN LAW AND ITS APPLICATION IN MODERN ARMED CONFLICTS

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Abstract:

International Humanitarian Law (IHL), traditionally referred to as the "law of war," has undergone significant evolution since its inception. Its primary objective has been to mitigate the effects of armed conflict by limiting the means and methods of warfare, while also protecting those who do not participate in hostilities. The foundation of IHL lies in treaties like the Geneva Conventions and their Additional Protocols, which outline the rights and responsibilities of both state and non-state actors during conflicts. Over time, the nature of warfare has changed dramatically, shifting from traditional state-centric wars to complex non-international armed conflicts, including civil wars, insurgencies, and conflicts involving non-state actors like terrorist groups. This evolution in warfare has posed considerable challenges to the applicability of IHL, necessitating constant adaptation of its rules and principles.

One significant development in modern armed conflicts is the rise of asymmetrical warfare, where state military forces confront irregular or insurgent groups. This has raised new questions about the classification of conflicts, the status of combatants, and the protection of civilians. The principle of distinction, a cornerstone of IHL, which mandates the differentiation between combatants and non-combatants, has become more difficult to enforce as armed groups increasingly blend with civilian populations. Furthermore, the use of new technologies such as drones, cyber warfare, and autonomous weapons systems has complicated the application of existing IHL frameworks, prompting calls for updates to legal definitions and protocols to address these emerging realities.

Another challenge has been ensuring compliance with IHL in conflicts involving non-state actors, who may not be signatories to traditional treaties. The international community has responded by developing soft law mechanisms and international tribunals, such as the International Criminal Court (ICC), to prosecute war crimes and ensure accountability. However, ensuring universal adherence to IHL remains a pressing issue, particularly in regions where state authority is weak or where non-state actors refuse to recognize the legitimacy of international legal norms.

Despite these challenges, IHL continues to serve as a vital framework for regulating armed conflicts. Recent developments, such as the adoption of new treaties to protect cultural property and the environment during war, indicate the international community's ongoing commitment to adapting IHL to modern challenges. However, the future of IHL will depend on the ability of states and international organizations to address the gaps in the legal framework and enhance the enforcement of its rules in an increasingly fragmented and complex global landscape.

Key words: *International Humanitarian Law, modern armed conflicts, asymmetrical warfare, non-state actors, Geneva Conventions, technological warfare*

1. Introduction

International Humanitarian Law (IHL), also referred to in specialized literature as the law of armed conflict or the law of war, consists of a set of rules and principles designed to reduce the harm that war can inflict on people and property. Its primary objective is to protect civilians, medical personnel, and prisoners of war, and to regulate the conduct of hostilities by imposing limits on the methods and means of warfare. The evolution of IHL can be traced back to ancient customs and treaties, but it

began to take its modern form in the 19th century, particularly with the adoption of the Geneva Conventions of 1864 and their subsequent updates (International Committee of the Red Cross, 1949). These legal instruments established fundamental principles governing the conduct of war, including the protection of civilians, the treatment of combatants, and the distinction between military targets and civilian objects.

As warfare has evolved, so too has IHL. Traditional wars between states, characterized by formal declarations of war and conventional battlefield engagements, have largely been replaced by more complex conflicts. These conflicts, which often blur the lines between combatants and civilians, present significant challenges for the application of IHL (Roberts, 2008). Furthermore, the rise of new technologies such as drones, cyber operations, and autonomous weapons systems has introduced additional complications, raising questions about the adequacy of existing legal frameworks. The ongoing evolution of IHL reflects the need to address these new realities while upholding the humanitarian objectives of the law (Schmitt, 2017).

This paper aims to highlight the evolution of IHL and its application in modern armed conflicts, focusing on essential issues such as the difficulties of distinguishing between combatants and non-combatants in asymmetric warfare, the legal implications of emerging technologies, and the challenges of enforcing IHL in conflicts involving non-state actors. It also examines recent developments aimed at strengthening IHL and analyzes prospects for its future adaptation to ensure its continued relevance in an increasingly complex global conflict landscape.

2. Basic content

The history of IHL's development is closely linked to the changing nature of warfare. Initially designed to regulate conflicts between states, IHL has progressively expanded its scope to include non-international armed conflicts, particularly in response to the proliferation of civil wars and insurgencies in the post-World War II period. The Geneva Conventions of 1949 and their Additional Protocols of 1977 were significant milestones (**Henckaerts and Doswald-Beck, 2005**). These treaties not only reinforced the protection of civilians but also addressed the status of combatants in internal conflicts, recognizing that wars are no longer confined to interactions between nation-states (International Committee of the Red Cross, 1949).

The development of IHL is shaped by the evolving nature of warfare. Initially created to regulate conflicts between states, IHL expanded its scope to include non-international armed conflicts, particularly in response to the proliferation of civil wars and uprisings in the post-World War II period. The Geneva Conventions of 1949 and their Additional Protocols of 1977 were key milestones (Henckaerts and Doswald-Beck, 2005). These protocols, in addition to strengthening civilian protection, addressed the status of combatants in internal conflicts, acknowledging that battles are no longer confined to interactions between national states (International Committee of the Red Cross, 1949).

Table 1. Comparison of Traditional Warfare vs. Modern Armed Conflicts and Challenges for IHL

| Aspect | Traditional Warfare | Modern Armed Conflicts | Challenges for IHL |
|--------------------------------------|--|--|---|
| Nature of Combatants | State actors, formal armies with clear uniforms | Non-state actors, insurgents, terrorists, militias | Difficulty in distinguishing combatants from civilians |
| Type of Conflicts | Inter-state wars (e.g., WWII, Korean War) | Asymmetrical warfare, civil wars, internal conflicts | Blurring of lines between combatants and non-combatants |
| Means of Warfare | Conventional weapons (tanks, planes, infantry) | Drones, cyber warfare, autonomous weapons | Technological advancements outpacing legal frameworks |
| Legal Framework | Geneva Conventions, Additional Protocols | Geneva Conventions, ICC, Customary IHL | Need for new interpretations and updates to protocols |
| Compliance and Accountability | State actors held accountable through treaties and conventions | Non-state actors may not recognize or follow IHL | Difficult enforcement and accountability mechanisms |
| Civilian Protection | Clear distinction between military targets and civilians | Civilians increasingly affected due to urban warfare | Increased civilian casualties, infrastructure damage |

While states are bound by international treaties such as the Geneva Conventions, non-state actors often do not sign these agreements, leading to challenges in enforcing legal accountability. In response to this issue, the international community established the International Criminal Court (ICC) in 2002 to enable the prosecution of individuals for war crimes, including leaders of non-state groups. However, the ICC faces political constraints and resistance from powerful states that refuse to recognize its authority, and many non-state actors deny the legitimacy of international courts, undermining the enforcement of International Humanitarian Law (IHL) (Gill & Fleck, 2013).

Technological advancements, such as drones and autonomous weapons, have introduced new legal and ethical dilemmas. For instance, drones enable precise strikes, but they also endanger civilians in situations where combatants are hard to distinguish (Melzer, 2009). Cyber warfare further complicates the application of IHL, given its potential to cause humanitarian harm without direct casualties. Therefore, the international community must adapt legal standards to address these emerging risks (Sassòli & Bouvier, 2011).

Despite these challenges, IHL remains crucial for mitigating the impact of armed conflicts. Recent initiatives, such as the 1999 Protocol to the Hague Convention for the Protection of Cultural Property, highlight the ongoing commitment to adapt IHL to modern realities. Nevertheless, the effectiveness of IHL hinges on the cooperation of states and non-state actors, as well as the ability of international institutions to enforce compliance with these norms.

3. Conclusion

IHL has shown resilience in the face of evolving warfare, adapting to new challenges while maintaining its core humanitarian mission. However, the rapid pace of technological change and the rise of asymmetric warfare test the limits of its applicability. The clash between state forces and irregular non-state groups, along with the difficulty of distinguishing between combatants and civilians, necessitates an update of the legal framework to better protect civilian lives. Technological advancements, including drones and cyber operations, require revisions to IHL to ensure its humanitarian objectives remain relevant in modern conflict scenarios.

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