

## ASYMMETRIC WARFARE AND THE CHALLENGES TO INTERNATIONAL HUMANITARIAN LAW

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### Abstract

In recent decades, asymmetric warfare has increasingly defined the landscape of armed conflict, largely due to the significant role played by non-state entities and their reliance on irregular strategies that strain the normative framework of International Humanitarian Law (IHL) (Kaldor, 2012; Hoffman, 2007). This article explores the misalignment between IHL's core principles—such as distinction, proportionality, combatant status, and accountability—and the operational realities of asymmetric battlefields. A comparative analysis is conducted across three case studies: the Coalition's operations against ISIS in Mosul, Myanmar's military conflict with the Rohingya population, and Turkey's intervention against the YPG in northern Syria. Findings reveal a structural gap in the legal responsibility between state and non-state actors, compounded by the limited enforcement mechanisms of IHL in non-international armed conflicts. The article proposes reform of international legal frameworks, the modernization of military doctrines and rules of engagement, and the integration of ethical and legal education into military training. These measures aim to maintain the relevance and effectiveness of IHL in facing future hybrid and asymmetric conflicts.

**Keywords:** Asymmetric Warfare, International Humanitarian Law, Non-State Armed Groups, Legal Accountability, Rules of Engagement, Civilian Protection.

### 1. Introduction

Asymmetric warfare has emerged as a defining feature of modern conflict dynamics. In contrast to conventional warfare, which traditionally involves symmetrical engagements between state actors with organized military capabilities, asymmetric warfare is characterized by the involvement of non-state armed groups, the use of irregular tactics, and the blurred lines between combatants and civilians (Kaldor, 2012; Hoffman, 2007).

International Humanitarian Law (IHL), founded on the 1949 Geneva Conventions and the 1977 Additional Protocols, was developed within the framework of inter-state warfare. The foundational doctrines of IHL, including distinction, proportionality, military necessity, and humanitarian concerns, presuppose conditions such as recognizable combatants, coherent command structures, and reciprocal legal commitments among parties to the conflict (Henckaerts & Doswald-Beck, 2005; ICRC, 2015).

This article seeks to examine the extent to which IHL is capable of addressing the legal and ethical challenges posed by asymmetric warfare. Using a qualitative-descriptive approach, the study conducts a comparative analysis of three conflict scenarios to highlight the structural imbalance between state obligations and non-state impunity, while offering strategic and legal recommendations for the future relevance of IHL (Schmitt, 2013; Bannelier & Cristol, 2019).

### 2. Theoretical and Conceptual Framework

International Humanitarian Law (IHL) is a branch of international law that governs the conduct of parties engaged in armed conflict. Its primary objective is to limit the effects of war on

both combatants and civilians by establishing rules regarding the means and methods of warfare. The core principles of IHL include the obligation to distinguish between combatants and non-combatants (distinction), the limitation of force to what is proportionate to military objectives (proportionality), and the principle of military necessity, which must not override humanitarian imperatives (Sassòli, 2019).

Asymmetric warfare refers to conflict between parties of unequal military strength or organizational structure, typically involving non-state armed groups that resort to guerrilla tactics, sabotage, terrorism, and insurgency to counter the superior force of conventional military actors (Hoffman, 2007). These groups often reject traditional rules of engagement and operate within civilian spaces, using non-linear tactics and hybrid strategies.

When IHL principles are applied in the context of asymmetric warfare, significant legal and operational tensions arise. For example, the principle of distinction becomes problematic when fighters disguise themselves as civilians or launch attacks from densely populated areas (Bannelier & Cristol, 2019). The application of proportionality also becomes challenging due to the difficulty of evaluating collateral damage in operations targeting elusive and decentralized non-state groups.

In response to these challenges, legal scholars and humanitarian institutions have proposed interpretive refinements. One such initiative is the Interpretive Guidance on the Notion of Direct Participation in Hostilities by the ICRC, which seeks to clarify when a civilian engaged in hostile acts may be lawfully targeted (Schmitt, 2013). This evolving discourse reflects a growing recognition that IHL must adapt its normative scope and application strategies to remain relevant in contemporary warfare.

### **3. Methodology**

This study adopts a qualitative-descriptive methodology with a primary reliance on library-based research. This approach enables an in-depth understanding of complex legal and strategic phenomena, such as the operationalization of International Humanitarian Law (IHL) within asymmetric conflicts, by drawing from theoretical literature, legal texts, and empirical case documentation (George & Bennett, 2005; Creswell & Poth, 2018).

Data were collected from both primary and secondary sources, including international legal treaties (e.g., Geneva Conventions and Additional Protocols), interpretive reports from the ICRC, United Nations resolutions, and peer-reviewed academic publications focused on armed conflict and international law. The selection of sources was guided by criteria of relevance, institutional credibility, and recent developments in the field.

The analytical technique employed is thematic analysis, a method widely used in qualitative research to identify key patterns and themes across narrative data (Braun & Clarke, 2006). In this study, four central themes derived from IHL doctrine are used as conceptual categories: distinction, proportionality, combatant status, and accountability.

To ensure validity, a cross-source triangulation method was applied, combining academic literature, legal norms, and field-based human rights reports. While no direct fieldwork or interviews were conducted, the study maintains analytical rigor through comparative interpretation and normative evaluation. The primary limitation of this research lies in restricted access to classified military operational documents and the potential bias inherent in reports produced by conflict stakeholders.

## **4. Case Studies**

### **4.1 Coalition Operations Against ISIS in Mosul**

The campaign to liberate Mosul from the Islamic State (ISIS) between 2016 and 2017 illustrates the complex challenges posed by urban asymmetric warfare. ISIS employed systematic tactics such as embedding fighters within civilian populations, utilizing hospitals and schools as operational bases, and deploying human shields—all of which obstructed the application of the principle of distinction (UNAMI & OHCHR, 2017).

Reports by the United Nations Assistance Mission for Iraq (UNAMI) and the Office of the High Commissioner for Human Rights (OHCHR) documented thousands of civilian deaths during the initial stages of the offensive. “These incidents raise pressing concerns regarding proportionality, as coalition airstrikes frequently targeted militants operating in dense urban environments, increasing the risk of collateral damage” (Human Rights Watch, 2017).

Amnesty International further reported that in some instances, the anticipated civilian casualties appeared to outweigh the military advantage gained from specific operations. This dilemma underscores the inadequacy of existing rules of engagement in addressing such scenarios and suggests the need for refined legal doctrines and advanced precision weaponry to uphold IHL in urban battlefields (Amnesty International, 2017).

### **4.2 Myanmar Military Operations against the Rohingya**

The conflict between Myanmar’s military (Tatmadaw) and the Arakan Rohingya Salvation Army (ARSA) presents a case of internal asymmetric violence with extensive humanitarian implications. Following attacks by ARSA, the Tatmadaw launched sweeping military operations characterized by mass killings, forced displacement, and destruction of Rohingya villages.

The United Nations Fact-Finding Mission determined that these actions may constitute crimes against humanity and potentially genocide, thus presenting a serious breach of IHL’s principles of necessity, distinction, and accountability (United Nations Human Rights Council, 2018). ARSA’s use of civilian zones for guerrilla warfare added to the complexity, yet the scale and indiscriminate nature of the state’s response placed the onus of legal responsibility on Myanmar’s armed forces.

This case highlights the jurisdictional and enforcement challenges IHL faces in non-international conflicts, especially in settings where non-state actors do not fit conventional combatant definitions and where state impunity persists. It suggests a need for synergy between IHL and international human rights law to address such asymmetries (Lubell, 2010).

### **4.3 Turkish Military Operations Against the YPG in Northern Syria**

Turkey’s cross-border military operations targeting the Kurdish People’s Protection Units (YPG) in northern Syria exemplify the ambiguity surrounding extraterritorial interventions against non-state actors. Turkey designates the YPG as an extension of the Kurdistan Workers’ Party (PKK), which it considers a terrorist organization. However, the YPG has also been recognized by various Western states as a key partner in the campaign against ISIS (International Crisis Group, 2019).

Operations in areas such as Afrin and Ras al-Ayn led to civilian casualties and displacement, yet the legal classification of the conflict remains contested. The YPG does not clearly meet the Geneva Convention criteria for lawful combatants, nor does it represent a state entity, rendering traditional IHL mechanisms less applicable (Human Rights Watch, 2020).

The debate over whether Turkey's actions qualify as self-defense under Article 51 of the UN Charter remains unresolved. The lack of universal condemnation and legal clarity suggests a normative vacuum in IHL regarding transnational operations against hybrid or irregular forces (Boothby, 2014).

These case studies collectively emphasize the need to adapt IHL to the evolving realities of asymmetric warfare, where the lines between combatant and civilian, and between state and non-state responsibilities, are increasingly blurred.

## 5. Strategic Implications

### 5.1 Implications for the International Community: The Need for Normative Reform

The operational challenges encountered in asymmetric warfare underscore a critical normative imbalance in the application of International Humanitarian Law (IHL). While state actors remain bound by treaty obligations such as the Geneva Conventions, non-state armed groups often operate beyond the reach of formal legal regimes. This discrepancy generates a double standard in legal accountability, wherein states face international scrutiny while non-state actors frequently evade enforcement (Bannelier & Cristol, 2019).

To mitigate this asymmetry, the international community must initiate a comprehensive reform agenda. One proposed measure is the formulation of a **Fourth Additional Protocol** to the Geneva Conventions that would explicitly delineate the legal responsibilities and obligations of non-state actors involved in armed conflict. Such a protocol could codify expectations for humane treatment of civilians, rules of engagement, and accountability mechanisms for violations.

Additionally, the jurisdictional reach of the **International Criminal Court (ICC)** should be extended to cover large-scale atrocities occurring within the context of non-international armed conflicts. While the Rome Statute permits limited jurisdiction over such scenarios, practical limitations in state cooperation and enforcement weaken its deterrent effect (Lubell, 2010).

Complementary regional mechanisms may also be effective. The creation of an **ASEAN Humanitarian Justice Task Force**, for example, could serve as a regional oversight body empowered to investigate violations, facilitate dialogue, and propose remedial actions in Southeast Asian conflict zones. These initiatives would strengthen the normative architecture of IHL and restore its credibility in the face of asymmetric threats (Durham & Quintin, 2021).

### 5.2 Implications for Military Institutions: Reform of Doctrine and Rules of Engagement

The structural characteristics of asymmetric warfare necessitate a significant overhaul of military doctrine, particularly regarding operational military support and engagement procedures. Traditional doctrines based on symmetrical warfare and fixed battle lines are inadequate in responding to the fluid, civilian-centric nature of contemporary conflicts (Boothby, 2014).

Military institutions must revise their **Operational Military Support Doctrine (OMSP)** and **Rules of Engagement (ROE)** to reflect the realities of hybrid threats. This includes provisions that address situations where non-state actors exploit civilian populations, infrastructure, and legal gaps. Legal officers should be embedded within operational planning teams to ensure that legal considerations are integrated from the outset.

Before deployment, tactical units should be subject to legal preparedness evaluations, and post-operational assessments should incorporate legal reviews to ensure adherence to International Humanitarian Law (IHL) norms. Such procedural reforms not only reduce the likelihood of violations but also bolster institutional legitimacy and resilience in the face of international oversight (Melzer, 2016).

### 5.3 Implications for Military Education and National Policy: Cultivating Ethical and Legal Awareness

Asymmetric conflicts expose the limitations of technical compliance with IHL in the absence of ethical awareness. To address this, military training institutions must cultivate a culture of ethical discernment and legal literacy across all ranks. This can be achieved through **scenario-based learning modules**, case study analysis, and simulations focused on legal dilemmas in asymmetric operations (Sassòli, 2019).

Military academies and command colleges should integrate IHL and battlefield ethics into their core curricula. Practical training should emphasize the moral implications of tactical decisions and the importance of safeguarding civilian populations, even in complex operational environments.

On a policy level, governments should establish institutional mechanisms such as **Military Ethics Review Cells (MERCs)**. These bodies would oversee compliance during operations, investigate violations, and provide advisory functions to commanders. Additionally, **whistleblower protections** and **legal compliance metrics** should be integrated into military performance evaluations to promote transparency and accountability.

By embedding these reforms, armed forces can enhance operational effectiveness while upholding the principles of humanity and the rule of law—a dual imperative in the conduct of modern military engagements.

## 6. Conclusion and Recommendations

### 6.1 Conclusion

Asymmetric warfare has reshaped the nature of contemporary armed conflict by introducing actors, strategies, and ethical dilemmas that were not envisaged under the traditional framework of International Humanitarian Law (IHL). Core legal principles such as distinction, proportionality, combatant status, and accountability have proven difficult to implement consistently in contexts where non-state actors exploit legal grey zones and civilian environments to their advantage (Henckaerts & Doswald-Beck, 2005; Sassòli, 2019).

The three case studies—Mosul, Rakhine State, and northern Syria—demonstrate how legal asymmetries manifest in real-world operations. State actors are held to stringent legal standards, face international oversight, and risk reputational damage for IHL breaches. Meanwhile, non-state groups often circumvent these responsibilities with impunity, undermining the foundational humanitarian purpose of the law.

This analysis reveals that current legal, operational, and institutional instruments are insufficient to address the evolving complexities of armed conflict. As warfare continues to evolve toward irregular and hybrid modalities, IHL must likewise adapt—both in legal doctrine and in practical implementation. Without such transformation, the credibility, enforceability, and protective capacity of IHL risk further erosion.

### 6.2 Recommendations

#### Strategic Recommendations for the International Community:

1. Draft a **Fourth Additional Protocol** to the Geneva Conventions that clearly defines the legal status, obligations, and accountability mechanisms applicable to non-state armed groups in asymmetric conflicts.

2. Expand the **jurisdiction of the International Criminal Court (ICC)** to strengthen enforcement mechanisms in non-international armed conflicts and increase state cooperation through binding obligations.
3. Promote the establishment of **regional legal institutions**, such as an ASEAN Humanitarian Justice Task Force, to serve as complementary mechanisms for conflict monitoring, legal guidance, and cross-border cooperation.

#### **Institutional and National-Level Recommendations:**

1. Revise military doctrines and **Rules of Engagement (ROE)** to incorporate legal frameworks responsive to asymmetric and hybrid threats.
2. Institutionalize **legal advisory roles** at every operational level, ensuring that compliance with IHL is embedded in tactical decision-making.
3. Integrate **IHL and battlefield ethics** into officer training and military education programs, utilizing interactive simulations and real-case scenarios.
4. Establish internal compliance mechanisms such as **Military Ethics Review Cells (MERCs)** to ensure transparency and accountability in field operations.
5. Implement **legal compliance benchmarks** and **whistleblower protections** as part of performance evaluations within the armed forces.

By implementing these multi-level reforms, the international community and national defense institutions can bridge the normative gaps within IHL, promote accountability, and reinforce the humanitarian foundations of military conduct in an era defined by asymmetry and complexity.

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