

35. JURISPRUDENCE

INTERNATIONAL HUMANITARIAN LAW IN THE CONTEXT OF HYBRID WARS

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Abstract. The article explores the applicability and challenges of International Humanitarian Law in the context of hybrid warfare, a modern form of conflict that combines conventional military actions with cyber operations, disinformation campaigns, and the use of non-state actors. It outlines the theoretical foundations of IHL, including its core principles of distinction, proportionality, necessity, and the prohibition of unnecessary suffering. The study emphasizes the difficulties in classifying hybrid conflicts within the traditional framework of international and non-international armed conflicts and examines how modern warfare blurs the boundaries between war and peace. Particular attention is given to the evolution of IHL—from the Hague and Geneva Conventions to contemporary interpretations addressing cyber operations and information warfare. The conclusion highlights the urgent need to adapt IHL to the realities of 21st-century warfare by developing clearer norms regarding cyber operations, private military companies, and state responsibility in hybrid conflicts.

Key Words: International Humanitarian Law (IHL), hybrid warfare, cyber operations, non-state actors, proportionality, distinction, Geneva Conventions, international law, humanitarian protection.

Purpose and Objectives of the Study. To examine the fundamental principles and theoretical framework of International Humanitarian Law, including distinction, proportionality, necessity, and the prohibition of unnecessary suffering. To define the concept of hybrid warfare and identify its key characteristics, such as the use of cyber operations, information manipulation, and non-state actors. To identify challenges in applying IHL to modern conflicts. To study the role of international organizations in enforcing IHL. To explore the evolution of IHL in response to new threats.

In modern conditions, hybrid wars have become one of the most dangerous forms of armed conflict. They combine traditional military operations with information warfare, cyberattacks, economic pressure, and the use of private military companies and irregular armed groups. Such wars blur the boundaries between war and peace, which complicates the application of the norms of international humanitarian law (IHL).

International humanitarian law found its first expression in the Geneva Convention of 22 August 1864, adopted to improve the condition of the wounded and sick in armed forces in the field. Since then, it has evolved through subsequent conventions aimed at protecting both combatants and civilians. However, in today's reality, the application of the principles and norms of IHL requires revision and clarification due to the emergence of new forms of aggressive actions by one state against another—concepts now defined as “hybrid war” or “hybrid aggression” [2, p. 397].

From a theoretical standpoint, hybrid warfare is a relatively new term that has recently appeared in military science and international political studies. Nevertheless, this concept has not yet been formally recognized in international law. To date, although scholars, analysts, and strategists from many countries have proposed various definitions of hybrid warfare, the term remains legally undefined in the framework of international law [3].

International organizations such as NATO, the European Union (EU), and the United Nations (UN) have also paid growing attention to the issue of hybrid warfare. However, to this day, the UN has not adopted an official position on this matter. Although some discussions on hybrid warfare have taken place at the UN Security Council since 2016, many experts believe that the UN still adheres to an outdated approach to conflict, and that “hybrid warfare poses a threat to international peace and security”.

Traditionally, IHL distinguishes between international armed conflicts — occurring between states — and non-international armed conflicts — occurring between government forces and non-state armed groups within a state. However, hybrid wars pose a classification challenge, as their actions may combine features of both types. For instance, the involvement of irregular forces, mercenaries, or so-called “volunteers” acting under the control of another state raises the question of whether such a situation constitutes an international conflict or merely an internal conflict with external intervention [6, p. 292].

According to the Commentary of the International Committee of the Red Cross on Article 2 of the Geneva Conventions, IHL applies “to all cases of armed confrontation of a certain intensity, regardless of whether war has been officially declared or not” [5]. Thus, even an undeclared hybrid aggression falls under the scope of IHL if there is a de facto armed confrontation between the parties.

The origins of IHL can be traced back to the Hague Conventions of 1899 and 1907, which first codified the rules of warfare and the protection of civilians. Later, the Geneva Conventions of 1949 and the two Additional Protocols of 1977 expanded the protection of civilians, prisoners of war, and the wounded.

In the 21st century, there is an urgent need to reinterpret the norms of IHL in light of new forms of armed conflict—particularly cyber warfare. In this context, UN Security Council Resolution No. 2341 (2017) emphasizes the need to protect critical infrastructure from cyberattacks in the context of international security. Another important document is the Tallinn Manual 2.0 on the International Law Applicable to Cyber Operations (2017), which seeks to align IHL with the rules governing cyber activities for military purposes [4, p.332].

The protection of the civilian population remains a central issue in hybrid warfare. Indiscriminate attacks, the use of “human shields,” and economic blockades pose severe threats to civilians. Ensuring humanitarian access to conflict zones is complicated by political pressure, sanctions, and the actions of non-state actors. International organizations such as the UN and the International Committee of the Red Cross play a key role in promoting compliance with IHL, yet their effectiveness largely depends on the cooperation of states.

Accountability for violations of IHL in hybrid conflicts presents another challenge. The difficulty of identifying perpetrators—especially in cyberspace or during information operations—limits the capacity of the International Criminal Court and other tribunals. Moreover, hybrid wars often occur in states with weak legal systems, which complicates the implementation of IHL.

One of the clearest examples of hybrid warfare is the annexation of Crimea in 2014, when Russia deployed armed personnel without insignia while simultaneously conducting an information campaign under the pretext of “protecting Russian-speaking populations.” The full-scale invasion of Ukraine in 2022 revealed the weaknesses of the international legal system and the lack of effective control and enforcement mechanisms. The aggressor state's actions in Ukraine are accompanied by numerous violations of international conventions and demonstrate the impunity of such crimes, which in turn encourages further violations. The current state of international humanitarian law and the engagement of international partners remain insufficient, as there are no signs of a decrease in the number or scale of crimes committed by the Russian Federation in Ukraine [1, p. 839].

In turn, as with any legal phenomenon, there are certain issues in specific aspects. The first issue that we would like to address in the context of our research is the discrepancy between the norms of international humanitarian law and modern realities. In particular, we aim to examine the concept of hybrid warfare, which is currently present in Ukraine. Many scholars in their works consider hybrid war as a war of a new generation [7].

The imperfection of the norms of international humanitarian law becomes particularly evident in the context of hybrid warfare, a vivid example of which is the Russian–Ukrainian war. This conflict clearly demonstrates the difficulties in applying traditional IHL norms due to the blurring of boundaries between military and civilian targets, as well as the combination of classical military operations with information aggression, cyberattacks, and other unconventional means of influence [1, p. 839].

In particular, the absence of clear legal mechanisms for regulating such elements of hybrid warfare as disinformation or cyberattacks on critical infrastructure creates a legal vacuum. During the war between Russia and Ukraine, numerous violations of IHL by the aggressor state have been recorded — for instance, deliberate strikes on civilian objects, which have caused significant civilian casualties; the use of “human shield” tactics, which directly contravenes the Geneva Conventions; documented cases of torture, executions, abuse, and psychological pressure on prisoners of war and civilians; and the forced transfer and deportation of Ukrainian children to the territory of Russia [1, p. 840].

All these actions demonstrate Russia’s systematic disregard for the norms of international humanitarian law during the conflict in Ukraine. However, due to the hybrid nature of the war, proving such crimes and establishing the responsibility of the perpetrators has become much more complex.

Moreover, hybrid warfare complicates the identification of the parties to the conflict, especially when the aggressor operates through proxy forces or denies its participation, as occurred during the annexation of Crimea and the destabilization of the situation in the Donbas. This calls into question the effectiveness of the current IHL framework, which is based on clear categories and definitions that are insufficiently adapted to modern realities [1, p. 840].

Thus, the Russian–Ukrainian war highlights the urgent need to modernize the norms of international humanitarian law in light of the challenges posed by hybrid warfare. It is necessary to develop new legal mechanisms that would ensure an adequate level of protection for the civilian population and provide accountability for crimes — even when they are committed in forms that go beyond the traditional understanding of armed conflict [1, p. 839].

The author believes that in order to ensure an adequate level of protection for the civilian population and to hold accountable those responsible for crimes that go beyond the traditional understanding of armed conflict, it is necessary to implement a number of legal mechanisms, namely:

- the establishment of an international tribunal for hybrid crimes, which would specialize in addressing violations associated with new forms of warfare, such as cyberattacks, disinformation, and the use of proxy forces. For such a tribunal to function effectively, a unified digital platform for documenting crimes should be developed, allowing for the collection, preservation, and analysis of digital evidence, including satellite imagery, video materials, and eyewitness testimonies;

- the expansion of the provisions of the Geneva Conventions to cover the new challenges of hybrid warfare, such as cyberattacks on critical infrastructure or the use of information weapons. At the national level, legislation should be strengthened by integrating the norms of international humanitarian law, particularly regarding

responsibility for crimes against the civilian population and war crimes linked to hybrid actions;

– for international cooperation, mechanisms of cross-border justice should be introduced to ensure a simplified procedure for the extradition of individuals suspected of committing hybrid crimes. An important component is also the increased presence of international monitoring missions, such as those of the UN or the OSCE, to record crimes and transmit materials to international courts [1, p. 841].

The implementation of these mechanisms would enhance the effectiveness of international law in modern conditions, ensure the protection of civilians' rights, and establish justice even in cases of complex hybrid conflicts.

In conclusion, hybrid warfare has become one of the most serious challenges for international humanitarian law, as it combines traditional military operations with cyberattacks, disinformation, and the involvement of non-state actors. These conflicts make it difficult to clearly apply the existing legal norms, especially when it comes to identifying the parties to the conflict and ensuring accountability for violations. Although the Geneva Conventions and their Additional Protocols remain the foundation of IHL, they were not designed for such complex and mixed forms of warfare. Therefore, there is a growing need to adapt international humanitarian law to modern realities in order to maintain its main goal — the protection of human life and the reduction of suffering during armed conflicts.

The further development of international humanitarian law should take into account the specific nature of hybrid wars, particularly through the integration of provisions addressing cyberattacks and disinformation. Special attention should be given to establishing effective international mechanisms of monitoring and enforcement that will ensure appropriate accountability for aggressors.

Scientific research should focus on improving national legal norms, developing tools for the digitalization of crime documentation processes, and creating new approaches to the protection of human rights under martial law. The results obtained will contribute to strengthening the national legal system and forming the basis for the modernization of international humanitarian law.

It is necessary to establish an international tribunal for hybrid crimes, develop digital tools for recording violations, expand the provisions of the Geneva Conventions, and improve mechanisms of cross-border justice. These measures will enhance the effective functioning of international humanitarian law, protect the civilian population, and ensure that aggressors are held accountable, thereby promoting justice in modern armed conflicts.

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