

## FROM BATTLEFIELDS TO BENCHMARKS : TRACING THE PAST AND SHAPING THE FUTURE OF INTERNATIONAL HUMANITARIAN LAW

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### Abstract

*This study aims to examine the historical evolution and contemporary development of International Humanitarian Law (IHL), as well as to identify the challenges and future directions in its application. The research employs a normative legal method with a multidisciplinary approach, analyzing primary legal instruments, historical documents, and scholarly literature to trace the development of IHL from its customary origins to modern codified frameworks. The findings reveal that IHL has evolved through significant milestones, particularly the Geneva and Hague Conventions, shaped by the contributions of states, humanitarian organizations, and legal scholars. Despite its normative advancement, IHL faces persistent challenges, including weak enforcement mechanisms, the rise of non-state actors, and the complexities introduced by emerging technologies such as cyber warfare and autonomous weapons. Furthermore, the politicization of humanitarian principles and gaps in accountability continue to hinder its effective implementation. This study concludes that strengthening IHL requires adaptive legal frameworks, enhanced compliance mechanisms, and inclusive norm development. Future reforms should prioritize legal innovation, international cooperation, and a renewed commitment to humanitarian values to ensure the continued relevance of IHL in addressing evolving forms of armed conflict.*

**Keywords :** Battlefields; Enforcement; Legal Evolution; International Humanitarian Law



## INTRODUCTION

International Humanitarian Law (IHL), commonly referred to as the law of armed conflict, constitutes a vital branch of international law aimed at mitigating the human suffering caused by war. Its central purpose is to protect individuals who are not or are no longer participating in hostilities, including civilians, wounded combatants, and prisoners of war, while also regulating the means and methods of warfare employed by parties to a conflict. As such, IHL reflects a normative effort to balance military necessity with humanitarian considerations, ensuring that even in situations of armed violence, certain fundamental principles of humanity are preserved.

The historical development of IHL demonstrates a gradual transformation from moral and customary norms into a structured and codified legal regime. Early manifestations of humanitarian principles can be traced to religious doctrines, philosophical teachings, and customary practices across various civilizations, all of which emphasized restraint in warfare and the protection of non-combatants. These foundational ideas were later formalized through landmark legal instruments, most notably the Hague Conventions of 1899 and 1907, which addressed the conduct of hostilities, and the Geneva Conventions of 1949, which established comprehensive protections for victims of armed conflict. Together with their Additional Protocols of 1977, these instruments form the cornerstone of contemporary IHL and continue to guide the behavior of states and other actors in times of war.

Despite its robust normative framework, IHL is increasingly confronted with complex challenges arising from the evolving nature of modern armed conflicts. One of the most significant developments is the rise of non-state armed groups, which often operate outside traditional legal structures and are not always effectively bound by treaty obligations. In addition, contemporary conflicts are frequently characterized by asymmetric warfare and urban battlefields, where the distinction between combatants and civilians becomes blurred, thereby increasing the risk of civilian harm and complicating the application of core IHL principles such as distinction, proportionality, and precaution.

Furthermore, rapid technological advancements have introduced new dimensions to warfare that were not anticipated by traditional legal frameworks. The emergence of cyber warfare, autonomous weapon systems, and artificial intelligence in military operations raises critical questions regarding accountability, attribution, and compliance with existing legal standards. These technologies challenge the adequacy of current IHL norms and necessitate ongoing legal adaptation to ensure their continued relevance.

Equally important is the persistent issue of weak enforcement and compliance. Although various international mechanisms, including international criminal tribunals and the International Criminal Court, have been established to promote accountability, their effectiveness is often constrained by political considerations, issues of jurisdiction, and the principle of state sovereignty. As a result, violations of IHL frequently go unpunished, undermining the credibility and authority of the legal regime.

In light of these developments, there is a pressing need to critically reassess the capacity of IHL to respond to contemporary and future challenges. This study is

therefore situated within the broader scholarly discourse on the evolution of IHL, with the aim of examining its historical trajectory, analyzing its current limitations, and exploring potential pathways for reform. By doing so, it seeks to contribute to the development of a more adaptive, inclusive, and effective legal framework capable of upholding humanitarian values in an increasingly complex and dynamic global security environment.

## RESEARCH METHOD

The historical development of International Humanitarian Law (IHL) reflects a gradual codification of norms aimed at mitigating the brutality of armed conflict. While the term “international humanitarian law” only gained prominence in the 1970s, its conceptual roots stretch back centuries through diverse cultural, religious, and philosophical traditions.

Early manifestations of humanitarian principles in warfare can be found in ancient codes such as the Laws of Manu in India, the Islamic concept of *jus in bello*, and the writings of classical philosophers like Cicero and Grotius. These traditions emphasized restraint, protection of non-combatants, and proportionality in the use of force. However, modern IHL began to crystallize in the 19th century with formal legal instruments.

A pivotal moment occurred with the drafting of the Lieber Code in 1863, commissioned by President Abraham Lincoln during the American Civil War. It marked the first attempt to codify the laws of war in a comprehensive manner for a national army. The Code laid the groundwork for subsequent international efforts by articulating principles of military necessity and humane treatment of prisoners of war.<sup>1</sup>

The humanitarian vision of IHL was further advanced by Henry Dunant, whose eyewitness account of the Battle of Solferino in 1859 led to the founding of the International Committee of the Red Cross (ICRC) and the adoption of the Geneva Convention of 1864.<sup>2</sup> This Convention established protections for wounded soldiers and medical personnel, inaugurating the “Geneva tradition” of humanitarian law.<sup>3</sup>

Subsequent developments included the Hague Conventions of 1899 and 1907, which focused on the conduct of hostilities and the rights of neutral parties.<sup>4</sup> The Geneva Conventions of 1949, adopted in the aftermath of World War II, expanded protections to civilians, prisoners of war, and the wounded, and remain the cornerstone of contemporary IHL.<sup>5</sup> The 1977 Additional Protocols further refined these protections, particularly in the context of non-international armed conflicts.<sup>6</sup>

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<sup>1</sup> Francis Lieber, *Instructions for the Government of Armies of the United States in the Field* (Lieber Code, 1863) General Orders No. 100.

<sup>2</sup> Henry Dunant, (1959). *A Memory of Solferino*. Geneva: ICRC.

<sup>3</sup> Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field (adopted 22 August 1864) 22 CTS 401.

<sup>4</sup> Hague Convention (IV) Respecting the Laws and Customs of War on Land (adopted 18 October 1907) 205 CTS 277

<sup>5</sup> Geneva Convention Relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287 (GC IV)

<sup>6</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection

While the orthodox narrative presents IHL as the heir to a long continuum of humanitarian norms, scholars have argued that its modern codification is historically contingent and shaped by a diverse cast of actors including states, legal scholars, and humanitarian organizations, each pursuing distinct agendas.<sup>7</sup> This perspective challenges the notion of IHL as a universal and ahistorical body of law, emphasizing instead its dynamic and contested evolution.<sup>8</sup>

## DISCUSSION

The legal architecture of International Humanitarian Law (IHL) has evolved through a complex interplay of treaty law, customary norms, and institutional mechanisms designed to regulate armed conflict and ensure accountability. Its development reflects both the codification of humanitarian principles and the institutionalization of enforcement and oversight.

The foundational legal instruments of IHL are the Geneva Conventions of 1949 and their Additional Protocols of 1977, which collectively establish the core obligations of states and parties to armed conflict.<sup>9</sup> These treaties delineate protections for wounded and sick combatants, prisoners of war, and civilians, and distinguish between international and non-international armed conflicts.<sup>10</sup> The International Committee of the Red Cross (ICRC) plays a central role in interpreting and disseminating these norms, acting as a neutral intermediary and guardian of humanitarian principles.<sup>11</sup>

In parallel, the Hague Conventions of 1899 and 1907 laid the groundwork for regulating the conduct of hostilities, including the use of weapons and treatment of prisoners.<sup>12</sup> These conventions complement the Geneva tradition by focusing on the means and methods of warfare, thereby forming the dual pillars of IHL.

The institutional framework supporting IHL has expanded significantly in the post-World War II era. The establishment of the International Criminal Court (ICC) under the Rome Statute of 1998 marked a watershed moment in the enforcement of IHL, providing a permanent forum for prosecuting war crimes, crimes against humanity, and genocide.<sup>13</sup> The ICC builds upon the precedents set by ad hoc tribunals such as the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), which

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of Victims of International Armed Conflicts (Protocol I) (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 3.

<sup>7</sup> Amanda Alexander, (2015). A Short History of International Humanitarian Law. *European Journal of International Law*, 26(1): 109.

<sup>8</sup> Ibid: 110-112.

<sup>9</sup> Geneva Convention Relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287 (GC IV).

<sup>10</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 609.

<sup>11</sup> ICRC, (2009). *The ICRC: Its Mission and Work*. Geneva: ICRC.

<sup>12</sup> Hague Convention (IV) Respecting the Laws and Customs of War on Land (adopted 18 October 1907) 205 CTS 277.

<sup>13</sup> Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3.

demonstrated the feasibility of international criminal accountability.<sup>14</sup>

Regional mechanisms have also contributed to the institutional landscape. The African Union, for instance, has adopted legal instruments such as the Protocol on Amendments to the Constitutive Act and supported the creation of the African Court on Human and Peoples' Rights, which has jurisdiction over violations of humanitarian law in certain contexts.<sup>15</sup>

Despite these developments, enforcement remains uneven. The principle of state sovereignty coupled with political considerations, often impedes the effective implementation of IHL.<sup>16</sup> Moreover, the proliferation of non-state armed groups and asymmetric warfare poses challenges to the applicability and enforcement of treaty-based norms.<sup>17</sup> Scholars have called for a more robust and inclusive institutional framework that accommodates contemporary conflict dynamics and enhances compliance mechanisms.<sup>18</sup>

## 1. Contemporary Challenges in International Humanitarian Law

International Humanitarian Law (IHL) faces a range of contemporary challenges that test its relevance, adaptability, and enforcement in modern conflict environments. These challenges stem from evolving modes of warfare, technological advancements, and the proliferation of non-state actors, all of which complicate the application and interpretation of established legal norms.

### Asymmetric and Urban Warfare

Modern armed conflicts increasingly involve asymmetric warfare, where state forces confront non-state armed groups employing unconventional tactics. The urbanization of conflict zones further complicates compliance with IHL, as densely populated areas heighten the risk of civilian harm.<sup>19</sup> The use of heavy explosive weapons in populated areas has prompted calls for stricter operational constraints and clearer legal standards.<sup>20</sup>

### Non-State Actors and Fragmented Conflicts

The rise of non-state armed groups, including transnational terrorist networks, challenges the traditional state-centric framework of IHL.<sup>21</sup> These actors often operate outside formal legal obligations, making enforcement and accountability difficult. The blurred lines between political violence and criminal activity in failed

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<sup>14</sup> Statute of the International Criminal Tribunal for the former Yugoslavia (UNSC Res 827, 25 May 1993); Statute of the International Criminal Tribunal for Rwanda (UNSC Res 955, 8 November 1994).

<sup>15</sup> Protocol on Amendments to the Constitutive Act of the African Union (adopted 11 July 2003); African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217.

<sup>16</sup> Antonio Cassese, (2005). *International Law*. Oxford: OUP: 357–360.

<sup>17</sup> Sandesh Sivakumaran, (2012). The Law of Non-International Armed Conflict. *International Review of the Red Cross*, 83(882): 315.

<sup>18</sup> Emily Crawford, (2015). *Identifying the Enemy: Civilian Participation in Armed Conflict*. Oxford: OUP: 198–202.

<sup>19</sup> ICRC, (2015). *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*. Geneva: ICRC: 37–39.

<sup>20</sup> ICRC, (2015). *Explosive Weapons in Populated Areas: Humanitarian, Legal, Technical and Military Aspects*. Geneva: ICRC: 5–7.

<sup>21</sup> Sandesh Sivakumaran, (2012). The Law of Non-International Armed Conflict. *International Review of the Red Cross*, 83(882): 315.

or fragile states exacerbate this issue.<sup>22</sup>

### Technological Advancements and Cyber Warfare

Emerging technologies such as autonomous weapon systems (AWS), artificial intelligence (AI), and cyber operations introduce novel legal dilemmas. While IHL applies to cyber warfare, questions remain about attribution, proportionality, and the protection of civilian infrastructure.<sup>23</sup> The deployment of AWS raises concerns about accountability and the necessity of human oversight in targeting decisions.<sup>24</sup>

The integration of autonomous weapons systems (AWS) and cyber capabilities into modern warfare has exposed critical gaps in the application of International Humanitarian Law (IHL). Singh highlights that AWS, driven by artificial intelligence, often lack the human judgment necessary to uphold the principles of distinction and proportionality, especially in urban combat zones.<sup>25</sup> Cyber warfare further complicates IHL compliance, as attacks on dual-use infrastructure such as power grids and communication networks blur the line between civilian and military targets.<sup>26</sup> Attribution remains a persistent challenge. Badhan and Jagota argue that the anonymity of cyber operations undermines accountability, making enforcement of IHL nearly impossible under current frameworks.<sup>27</sup>

These technologies also raise ethical concerns regarding meaningful human control and the legality of machine-driven targeting decisions. As warfare evolves beyond physical battlefields, IHL must adapt through new treaties, clearer definitions of cyber conflict thresholds, and robust oversight mechanisms.

### Environmental and Humanitarian Concerns

Modern armed conflicts increasingly expose the interconnectedness of environmental degradation and humanitarian suffering. International Humanitarian Law (IHL), while traditionally focused on protecting civilians and combatants, now faces pressure to evolve in response to climate change, urban warfare, and ecological destruction. Armed conflicts increasingly impact the natural environment, prompting debates about the adequacy of existing IHL protections.<sup>28</sup> The use of weapons with long-term ecological consequences and the targeting of infrastructure critical to civilian survival such as water and food systems underscore the need for enhanced safeguards.<sup>29</sup>

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<sup>22</sup> David Kaye, (2013). The Legal Landscape for Non-State Actors in Armed Conflict. *International Law Studies* 91: 1.

<sup>23</sup> Michael N Schmitt, (2013). Cyber Operations and the Jus in Bello: Key Issues. *Naval War College Review*, 87: 79.

<sup>24</sup> ICRC, (2014). *Autonomous Weapon Systems: Technical, Military, Legal and Humanitarian Aspects*. Geneva: ICRC: 12-15.

<sup>25</sup> Ajay Kumar Singh, (2025). International Humanitarian Law and Modern Warfare: Challenges in the Age of Autonomous Weapons and Cyber Conflicts. *The Infinite*, 2(6): 30.

<sup>26</sup> Ruben Stewart, (2025) The Shifting Battlefield: Technology, Tactics, and the Risk of Blurring Lines of Warfare. Geneva: ICRC. Blog, 22 May 2025.

<sup>27</sup> Deepika Badhan and Rupam Jagota, (2025). Emerging Technologies in Warfare: Legal Challenges for International Criminal Jurisprudence. *International Journal of Law*, 11(5): 84.

<sup>28</sup> ICRC, (2020). *Guidelines on the Protection of the Natural Environment in Armed Conflict*. Geneva: ICRC: 3-6.

<sup>29</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) (adopted 8 June 1977, entered into force 7

Environmental and humanitarian concerns are no longer peripheral to armed conflict; they are central to the future of IHL. Addressing these challenges requires strengthening legal clarity and enforcement mechanisms, integrating climate resilience into IHL frameworks, and promoting international cooperation and inclusive norm development. Without such reforms, the humanitarian promise of IHL risks being undermined by the very forces it seeks to regulate.

### **Compliance and Enforcement Gaps**

International Humanitarian Law (IHL) aims to regulate conduct during armed conflict and protect those not participating in hostilities. In spite of its normative strength, compliance, enforcement gaps remain a persistent challenge, especially in the face of evolving conflict dynamics and technological advancements. Despite the proliferation of legal instruments and institutions, enforcement of IHL remains inconsistent. Political considerations, lack of jurisdiction, and limited access to conflict zones hinder accountability.<sup>30</sup> Humanitarian organizations also face operational constraints due to counter-terrorism measures and sanctions that restrict impartial aid delivery.<sup>31</sup>

### **2. Future Directions and Reform Proposals in International Humanitarian Law**

As armed conflict continues to evolve, International Humanitarian Law (IHL) must adapt to remain effective, relevant, and enforceable. Scholars, practitioners, and humanitarian organizations have proposed a range of reforms aimed at strengthening legal protections, enhancing compliance, and addressing emerging threats.

#### **Strengthening Compliance Mechanisms**

One of the most pressing challenges is the lack of robust enforcement mechanisms. Proposals include expanding the jurisdiction and resources of the International Criminal Court (ICC) and enhancing domestic implementation of IHL obligations.<sup>32</sup> Strengthening national legal systems to prosecute war crimes and integrating IHL into military training and doctrine are also key priorities.<sup>33</sup>

Strengthening compliance mechanisms in International Humanitarian Law (IHL) remains a critical priority amid increasing violations and complex armed conflicts. The persistent disregard for IHL obligations, particularly by non-state actors and in protracted conflicts has prompted calls for reform that go beyond traditional enforcement models. Gillard<sup>34</sup> argues that the issue is not the absence of legal norms but the failure to comply with existing ones, necessitating innovative compliance strategies that include regular state reporting and thematic discussions.

Accountability is another cornerstone of compliance. Strengthening judicial

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December 1978) 1125 UNTS 3, art 54.

<sup>30</sup> Antonio Cassese, *Op. Cit.*, 357–360.

<sup>31</sup> ICRC, (2015). *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*. Geneva: ICRC: 70–72.

<sup>32</sup> Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3.

<sup>33</sup> ICRC, (2015). *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*. Geneva: ICRC: 70–72.

<sup>34</sup> Emanuela-Chiara Gillard, (2016). *Promoting Compliance with International Humanitarian Law*. (Chatham House, October 2016).

mechanisms, both domestic and international can deter violations. Yet, enforcement challenges persist, especially when powerful states resist scrutiny or invoke national security exceptions. As Cismas et al. note, double standards in enforcement erode trust in the international legal order and exacerbate impunity.<sup>35</sup> Future directions must also address compliance by non-state armed groups, which are often outside formal legal frameworks. Strategies such as incentivizing adherence through recognition, dialogue, and capacity-building have shown promise.

Ultimately, strengthening compliance mechanisms requires a multi-layered approach: combining legal reforms, institutional innovation, and political will. It must be grounded in universality, impartiality, and a commitment to humanitarian principles ensuring that IHL remains effective and relevant in the face of evolving conflict dynamics.

### Regulating Emerging Technologies

The rapid development of autonomous weapon systems (AWS), artificial intelligence (AI), and cyber warfare necessitates new legal frameworks.<sup>36</sup> The ICRC and other actors advocate for a precautionary approach, emphasizing the need for meaningful human control over lethal decision-making.<sup>37</sup> Reform proposals include the negotiation of new treaties or protocols specifically addressing these technologies.<sup>38</sup>

Autonomous weapons, especially Lethal Autonomous Weapon Systems (LAWS) raise profound ethical concerns that go far beyond technical capabilities. The key issues include:

Loss of human agency and moral responsibility which include delegating life-and-death decisions to machines, undermining human accountability. In the event of a machine's unlawful or mistaken attack, it's unclear who is responsible; the programmer, the commander, or the manufacturer?<sup>39</sup> This diffusion of responsibility challenges both legal frameworks and moral norms.

Also, unpredictability and the "Black Box" problem is another issue. AI systems, especially those using machine learning, can behave in unpredictable ways and the developers may not fully understand how decisions are made, making it difficult to ensure compliance with international law.<sup>40</sup> This unpredictability threatens the principles of distinction and proportionality in warfare. This is the concern of

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<sup>35</sup> Loana Cismas, et al, Strengthening Compliance with International Humanitarian Law and Improving Humanitarian Access. UK: International Development Committee, House of Commons.

<sup>36</sup> Michael N Schmitt, (2013). Autonomous Weapon Systems and International Humanitarian Law: A Reply to Critics. *Harvard National Security Journal*, 4: 1.

<sup>37</sup> ICRC, (2014). *Autonomous Weapon Systems: Technical, Military, Legal and Humanitarian Aspects*. Geneva: ICRC, 12-15.

<sup>38</sup> UNGA Res 73/27 (11 December 2018) UN Doc A/RES/73/27.

<sup>39</sup> Arms Control Association, (2018). Ethics and Autonomous Weapon Systems: An Ethical Basis for Human Control?. *The executive summary of a paper submitted by the International Committee of the Red Cross to the April 9-13 meeting in Geneva of the Convention on Conventional Weapons Group of Governmental Experts*. [DOCUMENT: Ethics and Autonomous Weapon Systems: An Ethical Basis for Human Control? | Arms Control Association](#) accessed 26 July 2025.

<sup>40</sup> Mary Ellen O'Connell, (2023). Banning Autonomous Weapons: A Legal and Ethical Mandate. *Ethics & International Affairs*, 37(3): 287-298.

scholars<sup>41</sup> who called for global regulation of AI.

Human dignity and the Martens clause are another issue, the idea that machines could autonomously decide to kill humans raises concerns about human dignity. The Martens Clause in international humanitarian law emphasizes the role of public conscience and humanity, which many argue cannot be upheld by autonomous systems.<sup>42</sup> The International Committee of the Red Cross (ICRC)'s view is that:

...human control must be maintained over weapon systems and the use of force to ensure compliance with international law and to satisfy ethical concerns, and States must work urgently to establish limits on autonomy in weapon systems.<sup>43</sup>

The issue that also arises is on target discrimination and civilian protection. Autonomous weapons may struggle to distinguish combatants from civilians, especially in complex urban environments<sup>44</sup> and errors in target selection could lead to unintended civilian casualties, violating core humanitarian principles. The risk of misuse and proliferation is an area of concern. These systems could be used by non-state actors or fall into the hands of rogue regimes<sup>45</sup> and without strong international regulation, there's a risk of arms races and destabilization. Experts argue for "meaningful human control" over autonomous weapons to preserve ethical decision-making. However, there's no consensus yet on what that control should look like in practice.<sup>46</sup>

### Expanding Protections for Civilians

The protection of civilians is a cornerstone of International Humanitarian Law (IHL), yet contemporary armed conflicts continue to expose civilians to disproportionate harm. Calls have been made to clarify and strengthen protections for civilians in urban warfare and protracted conflicts.<sup>47</sup> This includes revisiting the principle of proportionality, improving guidelines on the use of explosive weapons in populated areas, and enhancing accountability for attacks on civilian infrastructure.<sup>48</sup>

Expanding protections for civilians under IHL requires more than legal codification it demands political will, institutional reform, and civil society engagement. A renewed commitment to enforcement and innovation in legal interpretation is essential to meet the challenges of modern warfare

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<sup>41</sup> Tayewo A. Adewumi, (2025). Rule of Law, Corporate Governance and AI Humanoid Robots: Charting the Course for a Global Regulatory Framework. *Mizan Law Review*, 19(1): 93-116.

<sup>42</sup> ICRC, (2018). Ethics and autonomous weapon systems: An ethical basis for human control?. [icrc\\_ethics\\_and\\_autonomous\\_weapon\\_systems\\_report\\_3\\_april\\_2018.pdf](#) accessed 27 July 2025.

<sup>43</sup> Ibid.

<sup>44</sup> *The Week News Desk*, (2025). Understanding Lethal Autonomous Weapon Systems or LAWS: What are they, what makes them dangerous. [Understanding Lethal Autonomous Weapon Systems or LAWS: What are they, what makes them dangerous- The Week](#) accessed 27 July 2025.

<sup>45</sup> Ibid.

<sup>46</sup> Stanford Report, (2019). In Drell Lecture, speaker calls for ethics and humanity as militaries expand autonomous weaponry. [Ethics of autonomous weapons | Stanford Report](#) accessed 27 July 2025.

<sup>47</sup> ICRC, (2015). *Explosive Weapons in Populated Areas: Humanitarian, Legal, Technical and Military Aspects*. Geneva: ICRC: 5-7.

<sup>48</sup> Emily Crawford, (2015). *Identifying the Enemy: Civilian Participation in Armed Conflict*. Oxford: OUP, 198-202.

## Inclusive Norm Development

Reform efforts increasingly emphasize the inclusion of non-state actors, civil society, and regional organizations in norm development.<sup>49</sup> This participatory approach seeks to improve legitimacy and compliance, especially in non-international armed conflicts.<sup>50</sup> Scholars also advocate for greater recognition of regional legal traditions and customary norms in shaping IHL.<sup>51</sup>

Inclusive norm development refers to the participatory creation and diffusion of legal norms, ensuring that diverse actors contribute to the formulation of humanitarian standards. As Wright argues, norms in IHL are not static but evolve through social interaction, cultural shifts, and political engagement.<sup>52</sup> This process is especially critical in non-international armed conflicts, where non state actors are primary actors yet remain excluded from formal treaty-making. Sassòli proposes a hybrid model where core obligations are adopted collectively, while context-specific details are developed internally by states and armed groups, fostering ownership and compliance.<sup>53</sup> Inclusive norm development offers a transformative pathway for the future of IHL. By engaging a broader spectrum of actors in norm creation, the humanitarian legal framework can become more responsive, legitimate, and effective. Reforming IHL to institutionalize inclusive processes is not only a legal imperative but a moral one ensuring that those most affected by conflict have a voice in the laws that govern it.

## Adaptive Legal Interpretation

Adaptive legal interpretation refers to the dynamic reading of IHL norms in the light of evolving conflict realities, technological advances, and humanitarian needs. As Kebebew argues, applying a “living instrument” approach similar to the European Court of Human Rights’ jurisprudence can strengthen protections by interpreting principles like proportionality and precaution in good faith and with regard to cumulative impacts of warfare<sup>54</sup>

Given the dynamic nature of conflict, there is a growing call for more flexible and context-sensitive interpretation of IHL.<sup>55</sup> This includes re-evaluating the definitions of combatants and civilians, adapting legal standards to hybrid warfare, and ensuring that humanitarian principles remain central to legal reasoning.<sup>56</sup> Sassòli cautions that unilateral IHL-making by powerful states undermines the universality of humanitarian norms, advocating instead for inclusive interpretive processes that

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<sup>49</sup> David Kaye, (2013). The Legal Landscape for Non-State Actors in Armed Conflict. *International Law Studies*, 91: 1.

<sup>50</sup> Sandesh Sivakumaran, (2010). Engaging Non-State Armed Groups in the Compliance with International Humanitarian Law. *Human Rights Quarterly*, 22(1): 213.

<sup>51</sup> Jean-Marie Henckaerts and Louise Doswald-Beck, (2005). *Customary International Humanitarian Law*, Vol 1: CUP 2005.

<sup>52</sup> Will Jamison Wright, (2023). Norms, Diffusion, and International Humanitarian Law’ in *Norm Clusters of Non-State Armed Groups* (Springer 2023)

<sup>53</sup> Marco Sassòli, (2022). How Will International Humanitarian Law Develop in the Future?. *International Review of the Red Cross*, 104(820-921): 2052.

<sup>54</sup> Tadesse Kebebew, (2025). Evolutive Interpretation of Proportionality and Precautions to Strengthen Protections under International Humanitarian Law. *Opinio Juris*, (19 May 2025).

<sup>55</sup> Amanda Alexander, Op. Cit, 109.

<sup>56</sup> Nobuo Hayashi, (2010). Requirements of Military Necessity in International Humanitarian Law and International Criminal Law. *Boston University International Law Journal*, 28(39).

reflect common values and shared obligations.<sup>57</sup> This is especially relevant in regulating emerging domains such as cyber warfare and environmental degradation, where rigid textualism may fail to address novel harms.

Ultimately, reforming IHL through adaptive interpretation requires balancing legal certainty with humanitarian responsiveness ensuring that the law remains both principled and practical in the face of modern warfare.

### **3. Case Studies in the Application of International Humanitarian Law**

#### **Syria: Protracted Conflict and Civilian Protection**

The Syrian conflict, ongoing since 2011, has raised serious concerns regarding violations of IHL, particularly in relation to the protection of civilians, medical personnel, and cultural property. The use of indiscriminate weapons, siege tactics, and attacks on hospitals has drawn widespread condemnation. The UN Commission of Inquiry on Syria documented repeated breaches of the Geneva Conventions and customary IHL.<sup>58</sup> The ICRC emphasized the need for humanitarian access and respect for medical neutrality.<sup>59</sup> Despite clear legal prohibitions, enforcement has been hindered by geopolitical divisions and lack of jurisdictional reach.<sup>60</sup>

#### **Ukraine: International Armed Conflict and Legal Attribution**

Russia's invasion of Ukraine in 2022 has triggered renewed scrutiny of IHL in the context of international armed conflict. Issues include the targeting of civilian infrastructure, treatment of prisoners of war, and the use of cluster munitions. The International Criminal Court (ICC) opened investigations into alleged war crimes under the Rome Statute.<sup>61</sup> The UN Human Rights Monitoring Mission in Ukraine reported violations of IHL by both state and non-state actors.<sup>62</sup> Legal debates have emerged around the classification of cyber operations and hybrid warfare tactics.<sup>63</sup>

#### **Yemen: Non-International Armed Conflict and Accountability Gaps**

The conflict in Yemen, involving a coalition led by Saudi Arabia and Houthi rebels, exemplifies the challenges of applying IHL in non-international armed conflicts. Airstrikes on civilian targets and blockades have raised questions about proportionality and humanitarian access. Reports by Human Rights Watch and the UN Panel of Experts have documented violations of IHL.<sup>64</sup> The lack of effective accountability mechanisms has led to calls for independent investigations and

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<sup>57</sup> Marco Sassòli, Loc. Cit.

<sup>58</sup> UN Human Rights Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic* (13 August 2021) UN Doc A/HRC/48/70.

<sup>59</sup> ICRC, (2016). *Syria: Respect for and Protection of Medical Personnel and Facilities Must Be Ensured*. <<https://www.icrc.org/en/document/syria-respect-protection-medical-personnel>> accessed 27 July 2025.

<sup>60</sup> Antonio Cassese, Op. Cit, 357–360.

<sup>61</sup> ICC, (2022) *Situation in Ukraine: ICC Prosecutor Opens Investigation*. <<https://www.icc-cpi.int/news/ukraine-investigation>> accessed 27 July 2025.

<sup>62</sup> UN Human Rights Monitoring Mission in Ukraine, *Report on the Human Rights Situation* (June 2023) <<https://www.ohchr.org/en/countries/ukraine>> accessed 27 July 2025.

<sup>63</sup> Michael N Schmitt, Op. Cit:79.

<sup>64</sup> Human Rights Watch, (2020). *Yemen: Coalition Airstrikes Target Civilians*. <<https://www.hrw.org/news/2020/10/26/yemen-coalition-airstrikes>> accessed 27 July 2025.

reform of arms export policies.<sup>65</sup>

### **Israel/Palestine: Protracted Conflict and Absence of Peacebuilding Enforcement**

The Israel-Palestine conflict presents a persistent challenge to the enforcement of International Humanitarian Law (IHL). Despite decades of legal instruments, resolutions, and peacebuilding initiatives, violations continue with limited accountability. The October 2023 hostilities, including Hamas's attacks and Israel's bombardment of Gaza, raised serious concerns under IHL. Human Rights Watch documented violations such as indiscriminate attacks, use of white phosphorus, and collective punishment actions that may constitute war crimes under Articles 51 and 54 of Additional Protocol I to the Geneva Conventions<sup>66</sup>

Despite the ICC's jurisdiction over breach of IHL in the Occupied Palestinian Territory, enforcement remains weak. The ICC's investigation opened in 2021 is yet to yield prosecutions, reflecting the broader challenge of enforcing IHL against powerful state actors.<sup>67</sup> This necessitates scholars' call to the United Nations to initiate peace-building enforcements in the region.<sup>68</sup>

### **Lessons and Comparative Insights**

These case studies underscore recurring themes in IHL enforcement and they are: the difficulty of ensuring compliance in asymmetric and urban warfare, the role of international institutions in documenting and prosecuting violations and the need for stronger political will and legal innovation to close accountability gaps.

## **CONCLUSION**

The evolution of International Humanitarian Law reflects a continuous, if uneven, trajectory toward codifying humanity's conscience within the brutal realities of war. From its ancient origins and foundational treaties, to contemporary applications in complex conflict environments, IHL has demonstrated both resilience and adaptability. The historical development reveals an expanding commitment to civilian protection, humanitarian assistance, and moral restraint in armed conflict, underscored by international consensus and institutional support. Yet the modern battlefield shaped by asymmetric warfare, technological innovation, and the involvement of non-state actors poses challenges that test the limits of existing legal frameworks. Case studies such as Syria, Ukraine, Yemen and Israel/Palestine highlight the gaps between normative ideals and operational realities, particularly in accountability, enforcement, and compliance. Looking forward, IHL must embrace legal innovation and inclusive reform. Strengthening domestic and international enforcement mechanisms, regulating emerging technologies with precaution and clarity, and integrating diverse perspectives into norm development are essential steps toward a more humane and effective legal regime. If IHL is to

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<sup>65</sup> UN Security Council, *Final Report of the Panel of Experts on Yemen* (27 January 2021) UN Doc S/2021/79.

<sup>66</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* [2004] ICJ Rep 136.

<sup>67</sup> Mona Rishmawi, (2025). Enforcement of International Humanitarian Law in the Occupied Palestinian Territory: Where Do We Go from Here?. *Opinio Juris* (8 April 2025)

<sup>68</sup> Tayewo A. Adewumi, (2025). Middle-East Humanitarian Crisis: A Need for United Nations Peacebuilding Enforcements. *Khairun Law Journal*, 8(2): 122.

remain relevant in future conflicts, it must not only preserve its core humanitarian principles but evolve through sustained global cooperation, ethical foresight, and renewed commitment to the laws that protect human dignity in war.

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