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New challenges to international humanitarian law regarding the use of uncrewed aerial vehicles in armed conflicts

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Abstract: This article explores the emerging challenges posed to international humanitarian law (IHL) by the proliferation of unmanned aerial vehicles (UAVs) in armed conflicts. The purpose is to analyze the impact of drone usage on IHL principles, focusing on transparency, proportionality, and accountability. Employing a qualitative research method, the study evaluates recent armed conflicts involving UAVs, addressing issues of target identification, civilian protection, and legal responsibility. The findings highlight the evolving nature of armed conflict due to technological advancements, emphasizing the need for updated IHL frameworks to ensure the ethical and legal use of unmanned aerial vehicles in contemporary warfare.

Keywords: international humanitarian law; unmanned aerial vehicles; armed conflicts; drone warfare; challenges; transparency; proportionality.

Introduction

In the rapidly changing landscape of modern warfare, the proliferation of unmanned aerial vehicles (UAVs) has created unprecedented challenges to longstanding principles of international humanitarian law (IHL). The relevance of this topic is emphasized by the growing prevalence of drones in armed conflicts around the world, which raises acute questions about the adequacy of the existing legal framework. Recent research and publications have shed light on the complex intersections between the use of UAVs and IHL, revealing a complex situation fraught with ethical, legal, and operational dilemmas. As armed forces increasingly use drones for surveillance, reconnaissance, and targeted strikes, the necessity of critical evaluation and adaptation of IHL becomes imperative (Kravchenko, 2015).

Analysis of recent armed conflicts involving UAVs has revealed several multifaceted problems that require the attention of scholars. One of the main problems is related to the transparency and accountability of drone operations. The ability of unmanned systems to carry out covert missions and deliver precision strikes challenges traditional norms of warfare, complicating attempts to distinguish combatants and undermining the principle of proportionality.

In addition, the issue of target identification has become a critical focus in the context of drone warfare. The accuracy of UAVs in targeting specific individuals or locations can be a double-edged sword, potentially reducing consequential damages but also creating challenges in distinguishing legitimate military targets from civilian entities. It raises questions regarding compliance with the fundamental principle of IHL regarding the distinction between combatants and non-combatants (Shevchuk, 2022).

Civil protection, the cornerstone of humanitarian law, is another problem. Despite technological progress, the unintended consequences of drone strikes on civilians remain. Unresolved questions relate to the extent to which existing legal frameworks adequately protect civilians in the face of advances in military technology and tactics.

The ethical aspects of drone warfare further complicate the discourse. As drones minimize direct risks to military personnel, they are redefining the dynamics of conflict. This shift prompts a reassessment of just war theory and requires a comprehensive study of the ethical implications of using unmanned systems in armed conflicts.

Results of the research

International humanitarian law (IHL), also known as the laws of war or armed conflict law, is a body of legal principles aimed at limiting the consequences of armed conflict and protecting those who do not or no longer engage in hostilities. As technology continues to develop, the emergence of unmanned aerial vehicles (UAVs), commonly called drones, has posed new challenges and issues regarding the application and interpretation of IHL in armed conflicts (Poteryayko & Byelikova et al., 2021).

One of the main problems associated with the use of UAVs in armed conflicts is the issue of distinction. IHL provides that the parties to the conflict must distinguish between civilians and combatants,

as well as civilian objects and military objects. The use of UAVs, especially those equipped with advanced surveillance and targeting capabilities, raises concerns about the ability to effectively identify these important differences. Unlike traditional warfare, where combatants can visually identify targets on the battlefield, UAV operators may be physically distant from the conflict zone, relying on technologies that may have limitations in distinguishing between civilian and military objects and people (Shevchuk, 2020).

In addition, the deployment of UAVs raises questions about the principle of proportionality. According to IHL, the use of force must be proportionate to the achieved military superiority and avoid excessive harm to civilians and civilian objects. The accuracy and lethality of certain UAVs may challenge traditional notions of proportionality, as these technologies can potentially target specific individuals or locations with high precision. However, the risk of harm remains, and the consequences of errors in target identification can be serious (Kravchenko, 2015).

The liability issue is another serious challenge in the context of UAVs and IHL. Conventional warfare often involves clearly identifiable military units and personnel, making it easier to assign responsibility for violations of IHL. In the case of UAVs, the chain of command and decision-making processes can be more complex. Determining who is ultimately responsible for a drone strike that results in civilian casualties can be difficult, especially when the operation involves cooperation between different states or non-state actors.

The use of armed UAVs in extraterritorial targeted killings further complicates the situation. Such operations may raise questions about the sovereignty of the state in which the strike takes place, as well as the legality of targeted killings under IHL. The lack of a clear international consensus on the legal basis of extraterritorial drone strikes can lead to ambiguity and controversy regarding the application of IHL in such situations (Shevchuk, 2022).

Another problem is the potential blurring of traditional geographical and temporal boundaries of armed conflicts. UAVs equipped with long-range capabilities can operate across borders and engage targets in areas far removed from the immediate conflict zone. It calls into question the traditional understanding of armed conflicts as local events with defined borders. The ability of UAVs to project force over long distances raises questions about the application of IHL in situations where traditional notions of the front line and rear areas may be less relevant.

In addition, the development of technologies has led to the creation of autonomous or semi-autonomous UAVs, capable of making decisions without direct human intervention. The development of such technology raises ethical and legal questions regarding the application of IHL, particularly in terms of human control over the use of force. Ensuring accountability for actions taken by autonomous systems and addressing potential unintended consequences or failures becomes a critical aspect of adapting IHL to the changing environment of warfare (Poteryayko & Byelikova et al., 2021).

Another important aspect of the challenges associated with the use of UAVs in armed conflict is the impact on transparency and dissemination of information. Unlike traditional warfare, where battlefield events are often visible to the public and the media, the use of UAVs can involve covert operations and targeted strikes that may go unnoticed by the wider international community. This lack of transparency

raises concerns about accountability and the ability to hold parties involved in armed conflicts accountable for their actions. It also makes it difficult for humanitarian organizations and human rights defenders to monitor and respond to potential violations of IHL.

The proliferation of UAV technology among state and non-state actors further complicates efforts to regulate and enforce IHL. The availability and relatively low cost of UAVs means that a wider range of organizations can use these technologies in armed conflict. It creates a need for increased international cooperation and coordination to establish common standards and regulations governing the use of UAVs by IHL.

In turn, the rapid pace of technological progress in the UAV field may outpace the development of the legislative framework. With the emergence of new capabilities, such as unmanned aerial vehicles or advanced artificial intelligence applications, the international community must be proactive in anticipating and addressing the legal and ethical implications of these technologies in the context of armed conflict.

The psychological impact of UAVs on civilians is another dimension of the challenges facing IHL. The constant threat of aerial surveillance and the possibility of strikes can create a widespread sense of insecurity among civilians, even those not directly involved in the conflict. This psychological impact raises questions about the humanitarian aspects of armed conflicts and the long-term consequences for the affected population (Kolomiitsev, Misyura, et al., 2023).

Solving the problems associated with the use of UAVs during armed conflicts requires a multifaceted approach. States, international organizations, and civil society should work together to adapt existing legal frameworks, develop new norms where necessary, and ensure effective accountability mechanisms. It may involve strengthening international institutions responsible for overseeing compliance with IHL, increasing the transparency of military operations involving UAVs, and promoting international dialogue on the ethical and legal implications of new technologies.

Conclusions

Thus, the use of unmanned aerial vehicles in armed conflicts creates new and complex challenges for international humanitarian law. Issues of distinction, proportionality, accountability, extraterritoriality, and the emergence of autonomous technologies require careful consideration and adaptation of the existing legal framework. As technology continues to evolve, the international community must engage in ongoing dialogue to ensure that IHL remains effective in regulating the use of force and protecting the rights of civilians in an ever-changing global security environment.

Solving these challenges requires the concerted efforts of the international community. Continuous dialogue, cooperation, and the development of new norms and rules are essential for IHL to remain effective and relevant in the face of technological progress. Strengthening international institutions responsible for overseeing compliance, increasing transparency in military operations, and stimulating ethical debate about new technologies are imperative steps toward mitigating the impact of UAVs on IHL. By comprehensively solving these problems, the world community can strive to find a

balance between the use of technological achievements for military purposes and the protection of the rights of civilians in armed conflicts.

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