



International Humanitarian Law at the Tip of the Sword: A Sociological Analysis

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Abstract: *International Humanitarian Law (IHL) serves as a vital normative framework aimed at regulating armed conflict, protecting civilians, and limiting unnecessary suffering. While its principles are well-established, contemporary warfare poses significant challenges to its implementation. Advances in technology, asymmetrical tactics, and evolving military doctrines often create tensions between operational objectives and legal obligations. This study adopts a sociological perspective to explore the interaction between IHL norms and military practice, focusing on how legal rules are interpreted, negotiated, or contested within armed forces and broader society. Using qualitative methods, including case studies of recent conflicts, the research examines factors influencing compliance with IHL, such as organizational culture, societal attitudes, and political pressures. The findings indicate that, although IHL remains a cornerstone of international normative order, its effectiveness is contingent on social, political, and institutional contexts. Recognizing these sociological dimensions is crucial for enhancing the legitimacy, enforcement, and adaptability of IHL, ensuring it continues to provide meaningful protection in increasingly complex and technologically driven warfare environments.*

Keywords: *Armed Conflict, Civilian Protection, Compliance, Legal Norms, Military Ethics.*

1. INTRODUCTION

The conduct of armed conflict has always been shaped by a tension between the imperatives of military effectiveness and the constraints imposed by international law. International Humanitarian Law (IHL), codified primarily in the Geneva Conventions and their Additional Protocols, aims to mitigate the suffering caused by war, safeguard civilians, and regulate the means and methods of warfare (Henckaerts, Jean-Marie, and Louise Doswald-Beck, 2005: 76). Yet, the reality on the battlefield often reveals a stark contrast between legal norms and operational exigencies. Military strategies prioritize speed, efficiency, and strategic advantage, while legal norms emphasize restraint, proportionality, and protection of non-combatants.

From a sociological perspective, law is not merely a set of formal rules but also a social phenomenon that interacts with political, cultural, and institutional dynamics (Ehrlich, Eugen, 2002: 81). Applying this lens to IHL allows for an examination of how societal values, organizational hierarchies, and perceptions of legitimacy influence the enforcement and observance of humanitarian norms. Contemporary conflicts, including those involving drones, cyber warfare, and non-state actors, underscore the challenges of translating legal principles into practice (Kaldor, Mary, 2012: 102).

This study seeks to investigate the interplay between military practice and IHL through a sociological framework, addressing questions such as: how do military actors negotiate legal obligations under operational pressure, and how does society perceive the legitimacy of IHL in contemporary conflicts? The analysis intends to provide both normative insights and practical recommendations for enhancing compliance and understanding of humanitarian law in modern warfare (Sheeran, S., & Casey-Maslen, S., 2014).

2. THEORETICAL FRAMEWORK

International Humanitarian Law (IHL)

International Humanitarian Law (IHL) is a set of rules regulating the conduct of states and non-state actors during armed conflicts. Its main objectives are:

- a. To protect individuals who do not participate in hostilities, such as civilians and medical personnel.
- b. To limit the means and methods of warfare to reduce unnecessary suffering.

The core principles of IHL include:

- a) Distinction: differentiating between combatants and non-combatants.
- b) Proportionality: avoiding attacks that cause excessive civilian harm relative to the anticipated military advantage.
- c) Military Necessity: restricting actions to those required to achieve legitimate military objectives.

The primary sources of IHL include the 1949 Geneva Conventions, Additional Protocols I & II, and customary international law (International Committee of the Red Cross (ICRC), 2020).

Sociology of Law

Sociology of law emphasizes that law is not only a set of formal rules but also a social phenomenon shaped by culture, institutions, and societal values. This perspective helps to understand:

- 1) How military actors interpret and implement law in operational contexts.
- 2) How perceptions of legal legitimacy influence compliance with IHL.

Eugen Ehrlich's theory of *living law* highlights that everyday legal practice may differ from written law, depending on social norms and organizational structures (Geneva Conventions of 12 August 1949 and their Additional Protocols, 1949/1977).

Dialectics Between Military Logic and Legal Logic

Modern conflicts often reveal a tension between military logic (effectiveness, speed, and achieving strategic objectives) and legal logic (restrictions, civilian protection, and procedural safeguards) (Roberts, A., & Guelff, R., 2000).

- a. Example: the use of drones or cyber attacks that pose civilian risks creates dilemmas between military efficiency and legal compliance.
- b. A sociological analysis allows for identifying social, political, and cultural factors that influence the implementation of humanitarian law.

3. METHODOLOGY

Research Approach

This study uses a qualitative approach, focusing on document analysis, case studies, and sociological insights to examine the interaction between IHL and military practice (Bates, E. S., 2015: 513–538.).

Data Sources

- a) International legal documents: Geneva Conventions, Additional Protocols, International Committee of the Red Cross (ICRC) reports.
- b) Academic literature: books and articles on sociology of law and humanitarian law.
- c) Case studies of modern conflicts: drone warfare, cyber attacks, and non-state armed conflicts.

Data Analysis Techniques

- 1) Content analysis: evaluating legal texts and academic documents to extract principles, norms, and tensions between law and practice.
- 2) Sociology of law approach: examining how social, institutional, and political factors affect compliance with humanitarian law.
- 3) Comparative analysis: comparing IHL implementation across different conflicts and new technological contexts.

Research Limitations

- a. This study is desk-based, and does not include direct interviews with military actors.
- b. The focus is on internationally documented modern armed conflicts, which may not fully represent local or hidden conflicts.

4. RESULTS & DISCUSSION

Implementation of IHL in Modern Conflicts

Analysis of recent armed conflicts reveals that the application of International Humanitarian Law often faces operational constraints. Technological advances such as drone strikes, cyber warfare, and autonomous weapons systems challenge traditional IHL principles. For example, proportionality assessments become difficult when strikes are conducted remotely, and the distinction between combatants and non-combatants can be blurred in asymmetric warfare (Schmitt, M. N., 2013: 145-152).

In sociological terms, compliance with IHL is influenced not only by formal legal obligations but also by organizational norms within military institutions. Units with strong legal advisory support and internal accountability mechanisms show higher adherence to humanitarian norms compared to loosely organized forces (Blum, G., & Heyns, C., 2013 : 34-51).

Tension Between Military Logic and Legal Logic

The inherent tension between military efficiency and legal compliance manifests in decision-making under operational pressure. Military actors often prioritize speed, operational advantage, and strategic objectives over strict adherence to legal rules, particularly in situations of uncertainty or immediate threat (Mahnken, T. G., 2010).

From a sociological perspective, this tension can be understood as a conflict between formal legal norms and the “logic of practice” in military institutions. Max Weber’s concept of rational-legal authority suggests that legal compliance requires institutionalized structures; however, field realities often create deviations that are socially and politically tolerated (Weber, M., 1978 : 212-220).

Social Perceptions and Legitimacy of IHL

Perceptions of IHL legitimacy are critical for effective enforcement. Civilians, international observers, and non-state actors evaluate whether military conduct aligns with humanitarian norms. When violations are perceived as systemic or intentional, legitimacy is eroded, increasing support for irregular or retaliatory measures (Roberts, A., 2011: 5–40).

Evidently, legitimacy is socially constructed and context-dependent: states that integrate IHL training, accountability mechanisms, and public communication demonstrate higher domestic and international legitimacy even in intense conflicts (Forsythe, D. P., 2017: 87-102).

Role of International Institutions

International organizations, including the International Committee of the Red Cross (ICRC) and the International Criminal Court (ICC), play a crucial role in monitoring and enforcing IHL. However, enforcement mechanisms often rely on state cooperation, and sociopolitical factors can limit accountability. For instance, the ICC's inability to prosecute certain major powers demonstrates the gap between normative legal frameworks and realpolitik constraints (Milanovic, M., 2011 : 76-89).

Sociological analysis highlights that enforcement is not purely legal but deeply interwoven with social recognition, institutional credibility, and the political willingness of actors to comply (Burhanuddin, B., Wahyuniar, & Maskawati., 2024).

5. CONCLUSION

This study demonstrates that International Humanitarian Law (IHL) remains a fundamental normative framework for regulating armed conflicts, yet its practical application is continuously challenged by modern warfare dynamics. Technological advances, asymmetric conflicts, and non-state actors create operational environments where the tension between military logic and legal imperatives is highly visible.

From a sociological perspective, compliance with IHL is not solely determined by legal codification but is profoundly shaped by institutional norms, organizational culture, and societal perceptions of legitimacy. Military actors navigate between formal legal obligations and the practical demands of operational efficiency, often producing deviations that are tolerated or normalized within their institutions.

Furthermore, the legitimacy and effectiveness of IHL enforcement depend on international institutions' credibility, state cooperation, and societal recognition of legal norms. Without these sociopolitical factors, even robust legal frameworks risk becoming aspirational rather than enforceable.

In sum, the "tip of the sword" metaphor captures the dual reality of IHL: while it is a legal and ethical constraint on armed force, its implementation is inseparable from the social, political, and institutional context in which armed conflicts unfold.

Recommendations

- 1) **Strengthen Institutional Compliance:** Military organizations should integrate structured legal advisory mechanisms, accountability processes, and regular IHL training to ensure adherence to humanitarian principles during operations.

- 2) Enhance Social Legitimacy: States and armed actors should engage in transparent reporting and public communication to demonstrate compliance with IHL, reinforcing domestic and international legitimacy.
- 3) Support International Enforcement: Strengthening international institutions, such as the ICC and ICRC, with enhanced resources and political support is crucial to reduce gaps between legal norms and practice.
- 4) Research and Education: Further sociological research on the interplay between law, military culture, and technology in armed conflict can provide actionable insights for both policymakers and practitioners.

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