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For the past decade, armed conflict has had a persistent presence in the global community. From the brutal conflicts in Iraq and Syria to the civil war in the Ukraine, the current environment demonstrates modern warfare's expansive and complex spectrum. This spectrum includes non-state actors like Hezbollah, Al Qaeda, and the Islamic State of Iraq and Syria (ISIS). Their ability to sustain protracted military operations presents just one of a number of concerns for the legal regime governing warfare. Another concern is the rapid development of new technologies that can offer tactical advantages on the battlefield. The use of Unmanned Aerial Vehicles (UAVs), developments in autonomous systems, and nanotechnology could change the way nations engage in warfare.[1] In addition to these concerns, the emergence of international human rights law and its application during military operations adds a new dimension to the regulation of armed conflict.[2]

Contemporary Challenges to the Laws of War addresses the challenges modern warfare poses to the existing laws that govern the actions of na-

tion-states and nonstate actors in armed conflict. This book is a compilation of essays that are united by an inquisitive theme—"whether the existing laws of war are fit for the purpose" (pp. xix-xxx). The introduction of the book discusses the purpose in historical terms relating to Hague Law and Geneva Law. From this perspective, the purpose of the laws of war is to regulate hostilities. Specifically, the law pursues this purpose by providing protections for certain individuals on the battlefield (Geneva Law) and limiting the means and methods of warfare (Hague Law).

Using this broad purpose as a foundation, each essay provides an in-depth analysis of the law of war in relation to emerging issues in modern warfare. While this book does not provide a definitive answer to whether the laws of war are fit for the purpose, it does identify shortcomings and vulnerabilities in this legal regime. These vulnerabilities relate to how the law of war will deal with the use of new technologies on the battlefield, the influence of transnational nonstate ac-

tors, and the application of human rights law during armed conflict.

The use of new technologies on the battlefield presents a concern regarding a body of law that was drafted in the context of twentieth-century warfare. In chapter 10, William Boothby addresses the effectiveness of laws rooted in the past to govern technological advances. This chapter focuses on the law of targeting—a subset of the law of war—as the framework for analysis. The law of targeting defines the means and methods of engaging the enemy; therefore, this body of law seeks to control how nations leverage new technology to gain an advantage on the battlefield. One of the most controversial topics in this area is the use of UAVs, but, as David Turns demonstrates in his essay, the application of targeting law to this weapons platform is not that different from its application to manned aircraft.

Boothby also demystifies the use of UAVs and allocates much of his analysis to novel challenges like autonomous weapons and nanotechnology. He recognizes that the impacts of these technologies on the battlefield are unclear because they are still under development. Nevertheless, Boothby identifies vulnerability in the law of targeting for non-international conflicts. Boothby rightfully asserts that the law of targeting, encapsulated in the Additional Protocols to the Geneva Conventions, is more robust for international conflicts and that states can choose to apply these laws in non-international armed conflicts but are not required to do so. Considering that most of today's ongoing conflicts are of a non-international character, this vulnerability can be significant.

Non-international armed conflicts present other concerns for the law of war, and multiple essays touch on this subject. These concerns relate to the evolving characteristics of non-international armed conflict and the challenge it poses to the sparse legal regime governing this type of conflict. It is important to note that defining the type of conflict—international or non-international

armed conflict—is critical to determining which law applies. Common Article 3 of the Geneva Conventions governs non-international armed conflict and the rules are limited to the provision of that article and Additional Protocol II when applicable.[3] Many of the essays address particular challenges associated with the laws applicable to this type of conflict.

One of the challenges, as Dieter Fleck points out, is that nations are reluctant to recognize the existence of an armed conflict that would require the application of the law of war, particularly Common Article 3. As he states, “the existence of armed conflict was confirmed neither by the United Kingdom in Ireland nor by the Russian Federation in Chechnya” (p. 52). Another challenge, identified by Lindsay Moir, is the impact of nonstate actors conducting cross-border attacks or attacks in multiple countries, which has caused some scholars to categorize these conflicts as “transnational armed conflicts” (p. 79). Professor Moir does not agree with this categorization and believes the existing law is adequate and there is no need to create a new category of armed conflict. He does, however, see the issues related to the interpretation and application of the existing law to the transnational characteristics of recent non-international armed conflicts. Unlike the issues related to conflict characterization, the law of war's definition of “civilian” presents a significant challenge.[4] A sizable portion of fighters on the battlefield during non-international armed conflicts are civilians who are directly participating in hostilities.

Direct participation in hostilities (DPH) is a major challenge to the law of war as there are differing opinions on how to identify and target these civilians. The law of war principle of distinction requires parties to the conflict to distinguish between the civilian population and combatants. [5] One key aspect of non-international armed conflicts is that they involve a nation fighting non-state actors who may be civilians. Charles Gar-

raway tackles this issue in chapter 8, using the International Committee of the Red Cross's efforts as a basis for analyzing the issues presented by DPH. He concludes that there are differing opinions on the parameters of DPH and that the work of the ICRC has "raised as many questions as it has answered" (p. 183). He also identifies complications human rights law has created as it extends to armed conflicts. Garraway states, "Fuelled by the human rights position that the right to life is the most fundamental right, there is a growing reversal of the 'burden of proof.' Any death must be accounted for, even in the heat of battle" (p. 187). Consequently, human rights law will provide greater protections for civilians participating in hostilities than the protections afforded under the law of war.

Unlike new technology or complex non-international armed conflicts, human rights law seeks legitimacy by operating in conjunction with the law of war in the chaotic conflict environment. The coexistence of the law of war and human rights law creates a unique challenge, as Garraway discusses toward the end of his chapter. He poses the question, "What happens when the two legal systems appear to conflict?" (p. 187). Garraway's views, however, seem to be at odds with those of Dieter Fleck in chapter 3. While Garraway appears to be skeptical of the application of human rights law on the battlefield, Fleck seems to fully embrace the concept. He states, "International humanitarian law cannot be convincingly applied without regard to human rights law and other relevant legal disciplines" (p. 70).

Fleck's perspective may be a recognition of the effectiveness of human rights law's enforcement mechanisms, which include a multitude of regional human rights treaties and their established tribunals. The introduction to the book identifies the lack of enforcement institutions as a weakness of the law of war. Human rights law does not have this same weakness, as there are tribunals focused on human rights like the Inter-

American Court of Human Rights and European Court of Human Rights (ECtHR). The ECtHR has willingly asserted its jurisdiction on the battlefield in the cases of *Al-Skeini* and *Al-Jedda*, which is one example Garraway references that shows the competition between the law of war and human rights law.

The competition between the law of war and human rights law often splits the field of scholarly work in this area. Inherent in the law of war is the balance between military necessity and humanity; therefore, academics and practitioners in this field may differ on how to achieve this balance. Because this book's authors consist of former practitioners and academics, it generates diverse perspectives, which does not detract from the quality of this work. In fact, chapter 2 discusses the relationship between practitioners and academics since the early twentieth century. According to the authors, this relationship in the United Kingdom has been effective and mutually beneficial.

Contemporary Challenges to the Laws of War provides a variety of views on the application of existing law to modern warfare. The authors of the essays have diverse experiences that provide the reader with academic and practitioner perspectives. This diversity is the true strength of this book because the reader is exposed to differing approaches to the application and interpretation of this legal regime as it seeks to regulate hostilities by balancing military necessity and humanity. Whether the law of war is fit for this task is a question that remains unanswered by this book. What is clear, however, is that armed conflict has a dominating presence in the current global environment and the law of war will face considerable challenges. Its ability to carry out its purpose will be judged by the combatants who engage in battle and the civilians who suffer the consequences.

Notes

[1]. Ken Anderson, Daniel Reisner, and Matthew Waxman, "Adapting the Law of Armed Conflict to Autonomous Weapon Systems," *International Law Studies* 90 (2014): 387. Hitoshi Nasu and Thomas Faunce, "Nanotechnology and the International Law of Weaponry: Towards International Regulation of Nano-Weapons," *Journal of Law, Information and Science* 20 (2010): 23.

[2]. Marko Milanovic, "Al-Skeini and Al-Jedda in Strasbourg," *European Journal of International Law* 23 (2012): 131. Available at <http://ejil.oxfordjournals.org/content/23/1/121.full.pdf+html>.

[3]. William Johnson and Andrew Gillman, eds., *Law of Armed Conflict Deskbook* (Charlottesville, VA: TJAGLCS, 2013), 25.

[4]. Neither Common Article 3 of the Geneva Conventions nor Additional Protocol II explicitly defines civilians. Geoffrey S. Corn et al., *The Law of Armed Conflict: An Operational Approach* (New York: Wolters Kluwer Law & Business 2012), 148.

[5]. Johnson and Gillman, eds., *Law of Armed Conflict Deskbook*, 150.

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