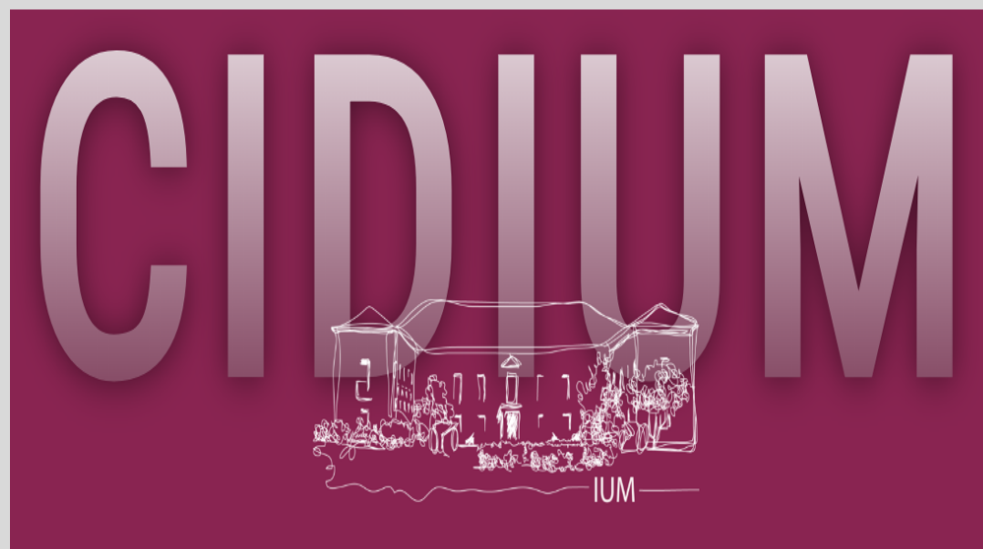


I&DCM 2018



ENCONTRO ANUAL DA INVESTIGAÇÃO E DESENVOLVIMENTO EM CIÊNCIAS MILITARES

Investigação em Ciências Militares: Atualidade e perspectivas futuras

The Twenty-First Century Conflicts

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Sessão Paralela AR1 – Estudo das Crises e dos Conflitos Armados (ECCA), 14h00, Sala 6



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Introduction



- Alongside non-international and international conflict, a third category of armed conflict is emerging: hybrid, asymmetric, and transnational conflict which involve state and non-state actors such as insurgents or terrorist organizations.
- Unconventional conflicts are among the trend topics of defense and security, and they pose a threat to the stability of international order.
- States and international organizations, such as the UN and NATO, face difficulty using legal tools currently provided by international law, in particular international humanitarian law (IHL) and the law of war (Geneva Conventions of 1949 and Hague Conventions of 1899 and 1907).

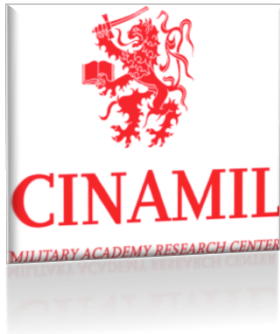


Question



Does current international law, inter alia IHL, apply or can be adapted to hybrid conflict? The research should:

- i. assess whether the rules of non-international armed conflict can be applied to conflict that has no finite territorial boundaries and that involves a non-state armed group operating transnationally;
- ii. determine whether IHL applies in transnational armed conflict against non-state groups, and if their members cease to be targetable during a pause in their active involvement;
- iii. check whether attacks carried out by a transnational organisation and its affiliates meet the criteria of qualifying as a situation of armed conflict under IHL, or if should be regarded an “international police operation”;
- iv. find whether new rules are required to deal with situations of hybrid conflict, or if current rules are still valid and can be used/adapted.



Framework



- The law of war refers to the aspect of public international law concerning acceptable justifications to engage in war (*jus ad bellum*) and the limits to acceptable wartime conduct (*jus in bello* or IHL). Among other issues, laws of war address:
 - i. declaration of war;
 - ii. acceptance of surrender and the treatment of prisoners of war (POWs);
 - iii. military necessity, along with distinction and proportionality;
 - iv. prohibition of certain weapons that may cause unnecessary suffering (e.g., the use of unmanned aerial vehicles, commonly known as “drones”).



Traditional Conflict vs. Unconventional Conflict



Traditional conflict

A traditional armed conflict, is limited in temporal physical space:

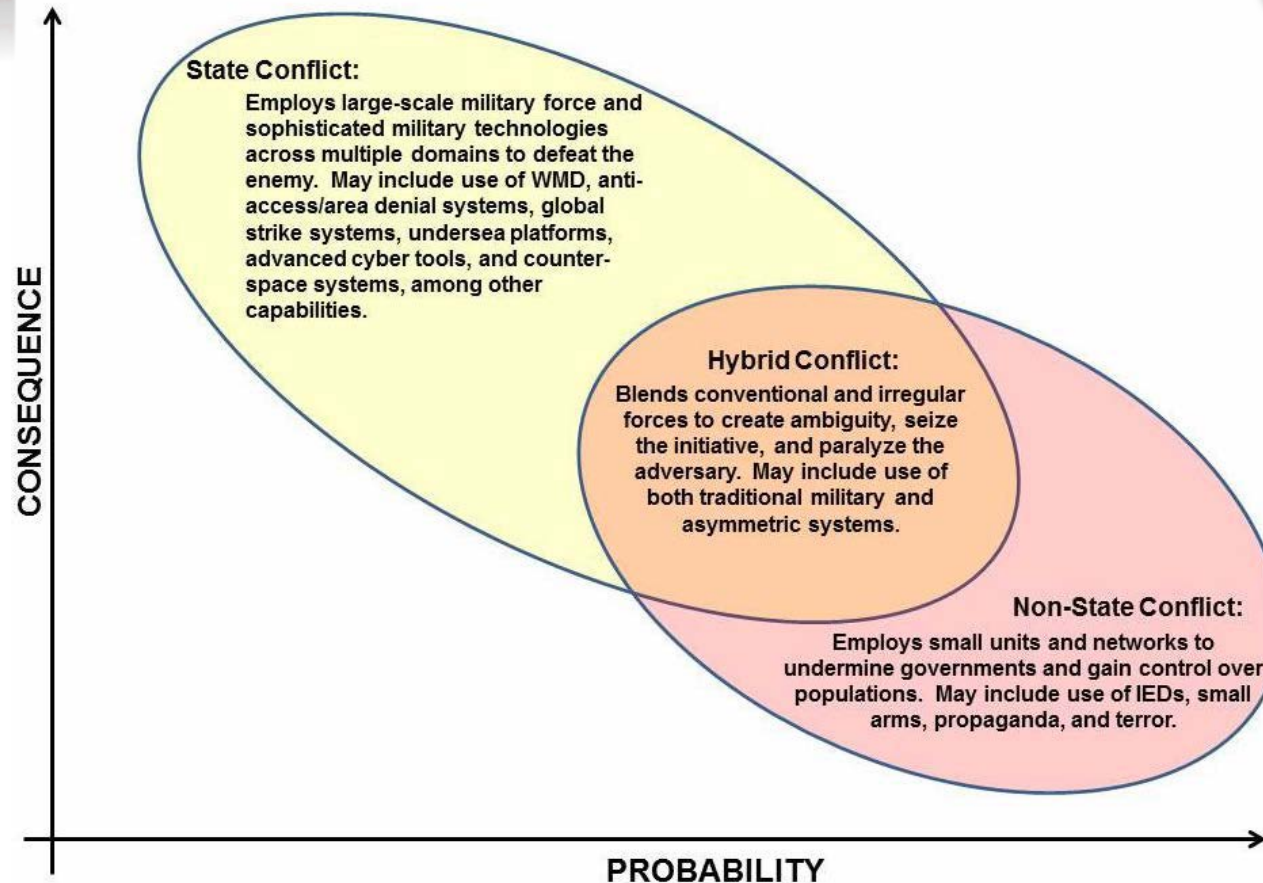
- a territory (theatre of war, battlefield, battlespace);
- beginning and end of hostilities (termination of hostilities is essential for the release of POWs).

Unconventional conflict

- In a transnational conflict, such as the War on Terror (WoT), is not possible to define the theatre of operations, that is global.
- Considering that in the fight against terrorism there is no clearly identifiable enemy, the WoT seems a worldwide counter-insurgency operation, rather than a classical defensive or aggressive war against a country or a coalition of states.
- States tackle the WoT by expanding the scope of the law of war and restricting the application of IHL.



Continuum of Conflict



The National Military Strategy of the United States of America 2015



Unconventional Conflicts

The War on Terror & Frozen Conflicts

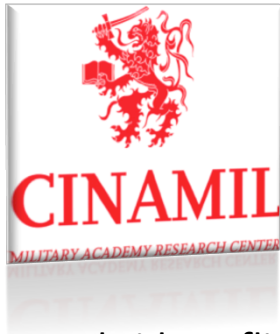


- The War on Terror is, by definition, the non-conventional conflict: it is an undeclared, transnational (global), asymmetric war, involving state and non-state actors (insurgents and terrorists), and presenting new threats, such as cyberattacks.
- The invasion of Afghanistan (2001) represents the beginning of the era of these new conflicts, which have multiplied over years, and which find a climax in the conflict in Syria (2011).
- Unconventional conflicts have erupted in former Soviet Union republics : “frozen conflicts” in Armenia–Azerbaijan (Nagorno Karabakh or Artsakh), Georgia (South Ossetia and Abkhazia), Moldova (Transnistria), and Ukraine (Crimea and Donbass - Donetsk and Luhansk People's Republic, 2014).
- Some conflicts are clearly still evolving; maybe not at the beginning, but in the meantime they can definitely be called “armed conflicts”.



Frozen Conflicts in Ex-USSR





Challenges



Hybrid conflicts characterize the post Cold War era:

- Gulf War (1990)
 - NATO bombing of Yugoslavia (1999)
 - Afghanistan (2001)
 - Iraq War (2003)
 - Syria (2011)
-
- Some of these military operations (Yugoslavia 1999, Afghanistan 2001) can be considered illegal wars of aggression against sovereign countries in violation of international law, without the support of UN Security Council resolutions.
 - The Syrian conflict (2011) involves: state and non-state actors; insurgents; terrorists.
 - The Global Coalition against Daesh is made up of 79 partners - including NATO, EU and INTERPOL – and operates within a sovereign country (Syria) without Gov. consent.
 - International organizations, such as UN and NATO, face difficulty addressing hybrid conflicts with the tools currently available.



NATO & Hybrid Conflicts



- NATO doctrine is evolving in response to the new strategic reality and the most pressing challenges: transnational terrorism and hybrid threats.
- Art. 5 of the *North Atlantic Treaty*, requiring partners to come to the aid of any member state subject to an armed attack, was invoked for the first and only time after 9/11 at request of the US, and gave rise to the intervention in Afghanistan in 2001.
- Art. 4, which merely invokes consultation among NATO members, was invoked by Turkey in 2012 over the Syrian civil war, and in 2015 after threats by the Islamic State to the Turkish territorial integrity.
- Both articles have been invoked in connection of hybrid conflicts, which involve state and non-state actors.
- Wales Summit (2014): NATO states that international law applies in cyberspace.
- Warsaw Summit (2016): NATO recognizes cyberspace as domain of operations.
- Brussels Summit (2018): NATO confirms posture and doctrine on cyberspace.



Conclusions



- Current rules, as they are applied, are unsuitable for dealing with issues that go beyond the rigid classifications established by international conventions and customary law.
- International law, inter alia IHL, is good as long as it dealt with a conventional conflict, or with a civil war within a single country, but shows its limits when faced with hybrid conflict.
- The international community has to establish new rules to deal with situations of hybrid conflict or to strictly apply current rules.



Future Research Directions



- Technology is a key driver of warfare.
- Application of high-tech solutions to military activities makes difficult to distinguish between conventional/unconventional, traditional/non-traditional, kinetic/non-kinetic, and lethal/non-lethal.
- The high-tech evolution of warfare and the interconnection between operational environments led to integrate cyber and space among the mainstream domains (land, sea, air).
- The research should deepen non only what weapons will be used in the twenty first century conflicts, but when and how they will be employed.
- The research should investigate the emerging autonomous domain, and the tendency to give more responsibility to machines.
- Military application of artificial intelligence and machine learning should be assessed under international law, inter alia under IHL.



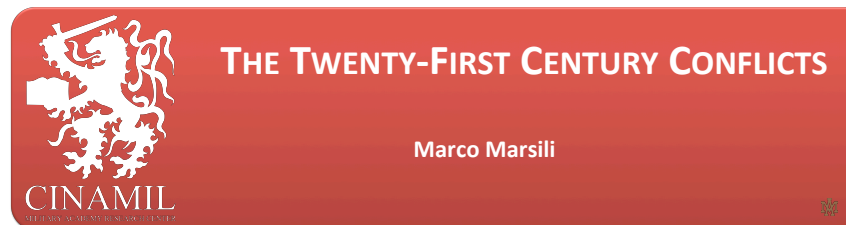
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Extended abstract and poster (DOI: 10.5281/zenodo.1992458) presented in the atrium of the Amphitheater General Ivens Ferraz (10h30–11h00 and 11h40-12h00) available in EAI&DCM 2018 proceedings.



Introduction

Alongside non-international and international conflicts, a third category of armed conflict is emerging: hybrid, asymmetric, and transnational conflicts which involve state and non-state actors such as insurgents or terrorist organizations. Unconventional conflicts are among the trend topics of defense and security, and they pose a threat to the stability of international order. States and international organizations, such as the UN and NATO, face difficulty using legal tools currently provided by international law, in particular international humanitarian law (IHL) and the law of war (Geneva Conventions of 1949 and Hague Conventions). The question is how current international law applies or can be adapted to these conflicts.

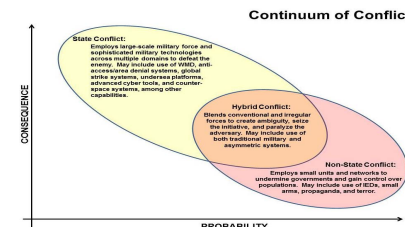
Framework

A traditional armed conflict, is limited in temporal physical space: a territory and beginning and end of hostilities. The termination of hostilities is essential for the release of prisoners of war. In a transnational conflict, such as the War on Terror, it is not possible to clearly identify the enemy or define the theatre of operations, that is global. States tackle the War on Terror by expanding the scope of the law of war and restricting the application of IHL.

The War on Terror is, by definition, the non-conventional conflict. It is an undeclared, transnational (global), asymmetric war, involving state and non-state actors (insurgents and terrorists), and presenting new threats, such as cyberattacks. The invasion of Afghanistan (October 2001) represents the beginning of the era of these new conflicts, which have multiplied after the dissolution of the Soviet Union in 1991, and which find a climax in the conflict in Syria (2011). Some conflicts are clearly still evolving; maybe not at the beginning, but in the meantime they can definitely be called “armed conflicts”.

Challenges

Hybrid conflicts characterize the post Cold War era: the NATO bombing of Yugoslavia (1999); the Gulf War (1990); the Iraq War (2003). Some of this military interventions, such as the intervention in Afghanistan (2001) and in Yugoslavia (1999), can be considered as illegal wars of aggression against sovereign countries, in violation of international law, because they did not have UN Security Council support. The same could be said for the Syrian conflict (2011), that is something very special due to the parties involved: state and non-state actors; insurgents; terrorists. These new conflicts are an issue that international organizations, such as the UN and NATO, face difficulty using the tools currently available.



The National Military Strategy of the United States of America 2015

Article 5 of the *North Atlantic Treaty*, requiring partners to come to the aid of any member state subject to an armed attack, was invoked for the first and only time after 9/11 at request of the U.S., and gave rise to the intervention in Afghanistan. Article 4, which merely invokes consultation among NATO members, was invoked by Turkey in 2012 over the Syrian civil war, and in 2015 after threats by the Islamic State to the Turkish territorial integrity. Both articles have been invoked in connection of hybrid conflicts, which involve state and non-state actors. NATO is evolving in response to new strategic reality, and terrorism is among the most pressing challenges the Alliance and its partners face.

Conclusions

Current rules, as they are applied, are unsuitable for dealing with issues that go beyond the rigid classifications established by international conventions and customary law. International law, in particular IHL, is good as long as it dealt with conventional conflict, or with civil war within a single country, but it shows its limits when faced with hybrid conflict. Probably the international community has to establish new rules to deal with situs of hybrid conflict.

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