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International humanitarian law and its significance for current and future military operations

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Miles Doctus

International humanitarian law and its significance for current and future military operations

El derecho internacional humanitario y su significado para las operaciones militares presentes y futuras

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ABSTRACT. This article examines the relationship between international humanitarian law and the development of military operations to analyze the current state of that relationship and project future scenarios in which those operations will take place and their new challenges. To this end, the article assumes a qualitative methodology and is developed in three sections: 1) definition of a military operation; 2) international humanitarian law and its role in the framework of military operations is defined; and 3) finally, in prospective, future scenarios of military operations and their relationship with international humanitarian law are considered in four dimensions: land, sea, air, and cyberspace. This prospective study focuses on the Colombian case, emphasizing on the National Army.

KEYWORDS: armed conflict; international humanitarian law; military operation; military strategy; war

RESUMEN. Este artículo investiga la relación del derecho internacional humanitario con el desarrollo de operaciones militares, con el objetivo tanto de analizar cuál es el estado actual de esa relación como también proyectar los escenarios futuros en los que esas operaciones se desarrollarán y sus nuevos retos. Para ello, el artículo asume una metodología cualitativa y se desarrolla en tres secciones: 1) se define qué es una operación militar; 2) se define el derecho internacional humanitario y su función en el marco de las operaciones militares, y 3) finalmente, en prospectiva, se plantean futuros escenarios de las operaciones militares y la relación de estos con el derecho internacional humanitario en cuatro dimensiones: terrestre, marítima, aérea y cibernética. Esta prospectiva se enfoca en el caso colombiano, con énfasis en el estudio del Ejército Nacional.

PALABRAS CLAVE: conflicto armado; derecho internacional humanitario; estrategia militar; guerra; operación militar

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Introduction

This article provides an approach to international humanitarian law (IHL) in the context of military operations (MO), seeking to offer a projection of these in possible future scenarios. With this purpose, it starts from a theoretical base, including authors such as the English military historian John Keegan, the American historian Victor Davis Hanson, and the expert in war studies, Lawrence Freedman. They have analyzed the past, present, and future of war and its magnitude in conflicts. Similarly, the following documents on defense doctrine in Colombia were examined: the *Operations manual* (Ejército, 2017c), the *Operational Law Manual* (Ejército, 2017e), and the *Fundamental Army Manual* (2017b). The Damascus Doctrine, which is being implemented in the Army, was also studied. In addition, sources from international organizations (IOs) such as the International Committee of the Red Cross (ICRC) were consulted.

The following reflection of the *Manual of doctrine* offers an approach to the concept of war:

Fundamentally, all warfare is about changing human behavior. It is, at the same time, a contest of wills and a contest of intellects between two or more parties in a conflict, each trying to alter the behavior of the other side. (Ejército Nacional, 2017a)

This is related to the complex nature of warfare, highlighting its consideration as a human activity, among other things. In this sense, Hanson (2011) points out the importance of the study of military history. Keegan affirms that a part of the political institutions is subscribed by relations of a conflictive type. This type of relations is considered a common form of human interaction. (Romero, 2000, p. 5)

In this sense, it is relevant to study the projection of MO and IHL in future scenarios in which these MO can be developed on the land, sea, air, and cyber fields. In this order of ideas, this research raises the following question: How does IHL empower MO, and can it be projected in the development of future scenarios on land, sea, air, and cyberspace?

This qualitative study is developed through an analytical-descriptive approach. With this approach, three thematic axes are identified: *military operation, international humanitarian law, and perspective*. In the latter, possibilities are determined according to a specific actor, the Colombian National Army. The documentary analysis was done from Clauso's (1993) perspective, which allows structuring and analyzing sources to have a solid and critical theoretical base.

The definition of a military operation

On this point, Keegan (2014) states the following: “centrally, conflict is a dynamic element of a situation in which two or more parties perceive that they have incompatible values, interests, or goals.” Davis Hanson (2011) documents the first wars in civilization, which arose between the Tigris and Euphrates rivers in ancient Mesopotamia. Since then, actions have not been limited to interest or triumph against an adversary but to also mitigating the conflict’s very effects on the adversary and the troops themselves.

At present, it is pertinent to remember that MO are developed within a hierarchy that determines the levels of military strategy through which guidelines are generated, planning is developed, and implementation takes place. In this way, the ends to be achieved are planned, with available means or necessary resources, and these are articulated through the ways to achieve the proposed goals.

The strategy and its levels

Western conception has given conflict a negative category; therefore, it is avoided. When a conflict develops, violent characteristics and actions can occur, making it a “violent conflict.” When it intensifies in variables such as weaponry and time, among others, it is consolidated as “war” (Figure 1). The main phases of its development must be taken into account, the offensive, the defensive, and, in certain situations, the counteroffensive. The cause of war can be political, economic, social, cultural, or geopolitical, for the control of vital and strategic resources.

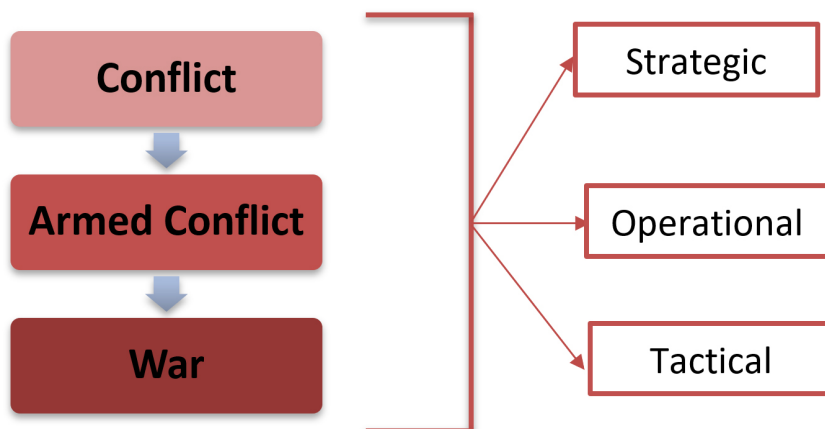


Figure 1. Transformation from conflict to war.
Source: Created by the authors.

In general, military strategy is developed in the following scenario, understood from the perspective of classical thinkers who take up Garay and Ramírez-Benítez (2017):

- I. Liddel Hart: “The art of applying military means to achieve political ends.”
- II. Andre Beaufre (1982): “The art of applying the means to achieve the objectives set by politics.”
- III. Carl von Clausewitz (2002): With a military connotation, “the theory of the use of combat for the end of the war.”

This gives rise to the idea of tactics and strategy put forward by Bouthoul (1984), who understood them as the art “to employ as effectively as possible the offensive and defensive means available —weapons, troops and fortifications—” (p. 265). In this way, three scenarios with differential aspects are considered for the development of MO:

1. *Strategic area*: where planning linked to the fulfillment of the national interest (vital and strategic) of a nation-state is achieved.
2. *Operational context*: where the development of war takes place, which is located in a theater of operations and where land, sea, air, and cybernetic elements intervene.
3. *Tactical*: where these forces are faced and where operations materialize on the ground.

Vergara and Kenny (2011) synthesize the elements of each level like this:

[...] the strategic one, which set the objectives; the operational one, which dealt with the maneuvers and logistics of the troops in a theater to place them in the best position for the confrontation; and the tactical one, which dealt with the confrontations of the forces. (p. 12)

After World War II, components of national power were incorporated into the scope of state strategy, creating a new division (Figure 2).

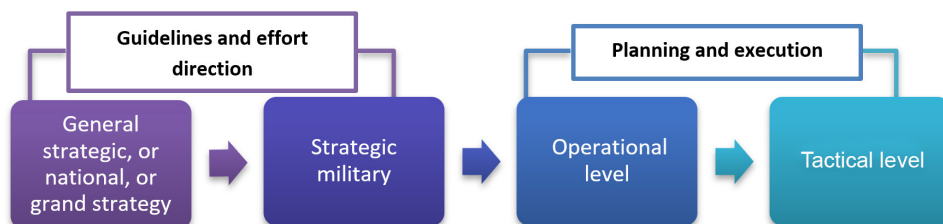


Figure 2. Levels of the strategy.

Source: Created by the authors with data from Vergara and Kenny (2011, p. 13).

Force projection

Within the conflict, a model of force projection has been established, which according to Hanson (2011) is distinguished as the western (direct) and the eastern (indirect) (Figure 3).

- I. *Western (direct)*: There are two actors (A and B). The objective focuses on the need to project forces towards each other. The aim is to defeat the opponent quickly, concentrating the means and ways available for that purpose.
- II. *Eastern (indirect)*: The actors are indirectly projecting forces onto each other. They seek to weaken the enemy, wearing him out and making him understand that fighting is costly and exhausting and promoting dialogue as a measure.

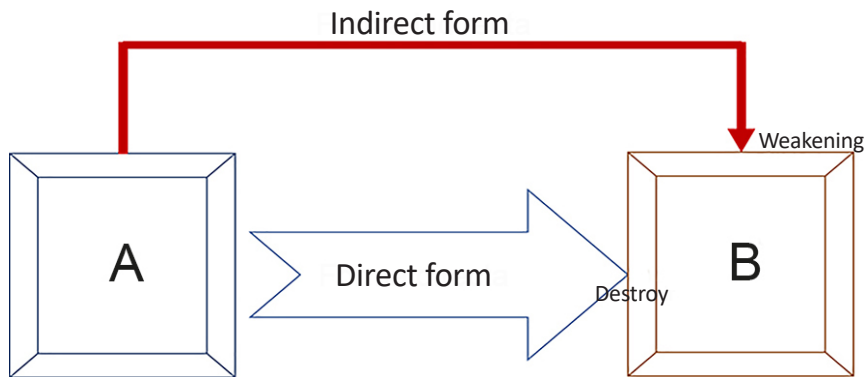


Figure 3. Force projection model.

Source: Created by the authors with data from Hanson (2011).

Conceptualization of the military operation

These two force projections determine the way in which it will operate. In that sense, considering the definition of MO found in the *Operations manual* of the Army (2017c), The areas where MO are developed are land, sea (naval), air, and cyberspace (Figure 4).

To approximate this definition to the specific case of the Colombian Military Forces, with emphasis on ground force, an operation is considered “a sequence of tactical actions with a common purpose or unifying theme.” Basically, the purpose of MO is to preserve one’s interest from that of the adversary (Ejército, 2017c). This purpose is linked to the constitutional foundations regarding the *duty to protect*, which is a primary function, as indicated by the National Army (2017e). To this end, it “must carry out forceful and effective military operations to fulfill this purpose, to subdue those who wish to attack the

constitutional order and the constitutional principle that the monopoly of arms is at the head of the State.” (p. 5)

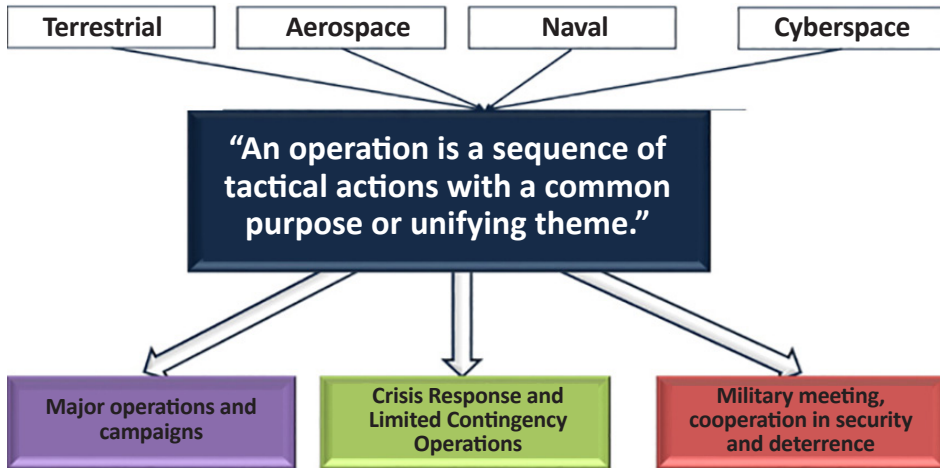


Figure 4. Conceptualization of MO.

Source: Created by the authors with data from the National Army (2017c).

MO are also based on what was defined by the Constitutional Court (2002) as the Public Force:

[...] protects the population by carrying out its mission with the appropriate firmness and forcefulness to subdue those who subvert the constitutional order and defy the democratic principle, according to which the State is entrusted with a monopoly on the legitimate use of arms. (Ejército, 2017e, p. 6)

These operations can be developed in a range that covers the relationship of the operational level with the strategic level and the tactical level. In this range, MO are classified as follows: 1) major operations or campaign; 2) crisis response and limited contingency operations; and 3) military meetings, security operations in situations, and cooperation in security and deterrence (Ejército, 2017c, p. 3).

MO develop in a volatile, uncertain, complex, and ambiguous context (VICA). This context, for example, involves hybrid-type conflicts, in which actors facing state forces “are capable of using the coordinated tactics of regular armies, while carrying out criminal activities, terrorist attacks, and employing the latest technological advances” (Baques, 2015, cited in Torrijos & Balaguera, 2017, p. 55). In these confrontations, the distinction between combatants and civilians is blurred, “Since regular army partners do not adhere to international humanitarian law, they often resort to various indiscriminate forms of violence to achieve their objectives.” (Torrijos & Balaguera, 2017, p. 56)

In the Colombian context, after the signing of *Final agreement for the end of the conflict and the construction of a stable and lasting peace* (Final Agreement) between the Government of Juan Manuel Santos and the FARC guerrillas in the year 2016, the Military Forces are going through a stage in which functions for “non-war” operation scenarios are being integrated—for example, the care of natural disasters—with a “multi-mission” approach, assumed by the ground force for the stabilization and consolidation scenario.

For the development of MO, *situational awareness* is necessary as a basis for decision-making at the strategic, operational, and tactical levels. This awareness makes it possible to determine the way in which MO are developed, basically based on the following questions: Where am I? Where is my opponent? and, What is the context in which it takes place?

In contexts where the civilian population, economic infrastructure, and other factors are present, the application of two principles of warfare is taken into account: 1) *the economy of strength*, knowledge and, situational awareness to economize the means for the greater outreach of the MO; and 2) *the objective*, which can be established when full situational awareness is developed. Otherwise, when these elements are unknown, and there is no situational awareness, the operations entail additional costs, collateral damage and are not focused on a mission to be accomplished.

The definition of IHL and its role as a MO enabler

General conceptual framework of IHL

This section sets out the general framework of IHL. IHL is generally recognized as the “law of war” or the “law of armed conflict.” It is the set of norms that, from the humanitarian field, “seeks to limit the effects of armed conflict. It protects people who do not or no longer participate in the fighting and limits the means and methods of waging war.” (CICR, 2004)

This branch of international law is found in the 1949 Geneva Conventions and is complemented by the 1977 Additional Protocols on the Protection of Victims in Armed Conflict (CICR, 2004). In IHL, there is a distinction between armed conflicts according to the environment in which they take place. On the one hand, conflicts of an *international* character involve a confrontation between two or more States. For these conflicts, the provisions of the Geneva Conventions and Additional Protocol I apply. On the other, conflicts of a *non-international* nature take place in the territory of the same State and are generally confrontations between the regular armed forces and the illegal armed groups. These conflicts are regulated by the Geneva Conventions and Additional Protocol II (CICR, 2004).

These rules strike a balance between humanitarian issues and the military requirements of a state. In this way, IHL is regulated by two mutually related regulations, as shown in Figure 5.

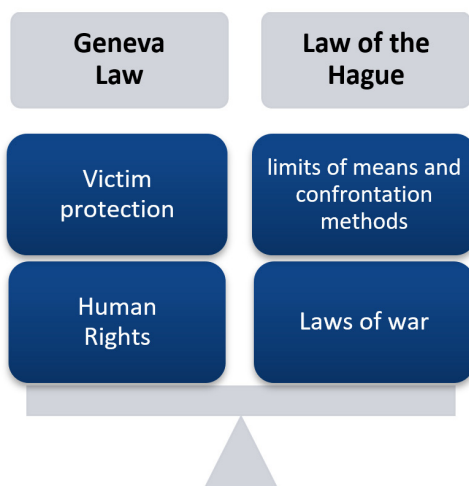


Figure 5. IHL regulations.

Source: Created by the authors.

Hague Law

The competence of these rules implies the development of regulations for the conduct of hostilities and the limitation of the means and modes that can be used in the confrontation. Thus, Hague law encompasses the protection of combatants and non-combatants, with a focus on prevention (Bugnion, 2001). The main rules recognized in this branch of IHL are the 1899 Convention and the 1907 Convention; the others taken up in Table 1 are complementary and relevant.

Table 1. Hague Conventions for the conduct of hostilities

Standard	Year	Title	Aspects that it regulates
Hague Convention II	July 29th, 1899	On the laws and customs of land warfare	Of the belligerents (Of the prisoners of war, sick, and wounded)
			From the hostilities (Of the means to harm the enemy, of the sieges and bombings; Of the spies; Of the parliamentarians; Of the capitulations and the armistice)
			Of the military authority over the territory of the Enemy State
			Of the warring inmates and the wounded cared for in a neutral country

Table continues...

Standard	Year	Title	Aspects that it regulates
The Hague Convention	June 15 - October 18, 1907	For the peaceful resolution of international disputes	General Peacekeeping
			Good offices and mediation
Convention	1997	On the prohibition of the use, stockpiling, production and transfer of anti-personnel mines and on their destruction	From international commissions of inquiry
			International arbitration (<i>Of the arbitral justice, Of the Permanent Court of Arbitration, Of the arbitral procedure</i>)
Convention	December 2nd, 1983	About certain conventional weapons	Destruction of stockpiled anti-personnel mines
			Destruction of anti-personnel mines in mined areas
Convention	December 21, 2001 (amendment)	On the prohibition of bacteriological weapons and toxins and their destruction	International cooperation and assistance
			Transparency measures
Convention	1972	On the prohibition of bacteriological weapons and toxins and their destruction	Facilitation and clarification of compliance
			National implementation measures
Convention	1972	On the prohibition of bacteriological weapons and toxins and their destruction	Dispute resolution
			Meetings of States Parties
Convention	1972	On the prohibition of bacteriological weapons and toxins and their destruction	"The purpose is to restrict the use of certain specific types of weapons that cause combatants excessive injury or unnecessary suffering, or that affect civilians" (ONU, 2001, par. 2)
			"It is complementary to the Protocol in that it prohibits the development, production, stockpiling, acquisition, retention, and transfer of bacteriological weapons and requires their destruction. The complementarity of these two texts is also endorsed in the preamble and in Article 8 of the Convention." (CICR, 2003)

Source: Created by the authors with data from ICRC (1899); UN (1997; 2001); ICRC (2003).

Law of Geneva

The Geneva Conventions are essentially constituted around the humanitarian aspect. These agreements seek to guarantee the attention of the victims, understood as: “wounded or sick soldiers, castaways, prisoners of war or civilians” (Bugnion, 2001) (Table 2).

Table 2. Geneva Conventions and Additional Protocols

Standard	Year	Title	Aspects that it regulates
First Geneva Convention		To alleviate the fate of the wounded and sick in the armed forces in the field	Injured and sick
			Sanitary Units and Facilities
			Staff
			Buildings and material
			Sanitary transports
			Distinctive sign
			Application
Second Geneva Convention	August 12, 1949	To alleviate the fate of the wounded, sick and shipwrecked of the armed forces at sea	Repression of abuses and violations
			Wounded, sick and shipwrecked
			Hospital ships
			Staff
			Sanitary transports
			Distinctive sign
			Application
Third Geneva Convention		Concerning the treatment of prisoners of war	Repression of abuses and violations
			General protection of prisoners of war
			Captivity
			End of cautiverio
Fourth Geneva Convention		On the Protection of Civilian Persons in Time of War	Information Office and Prisoner of War Relief Societies
			General protection of the population against certain effects of war
			Status and treatment of protected persons

Table continues...

Standard	Year	Title	Aspects that it regulates
Protocol I Additional to the Geneva Conventions	June 8, 1977	Concerning the protection of victims of inter- national armed conflicts	Wounded, sick and shipwrecked <i>(protection, sanitary transports, missing and deceased persons)</i>
			Methods and means of warfare. Combatant and prisoner of war status <i>(methods and means of warfare)</i>
Protocol II Additional to the Geneva Conventions		Concerning the protection of victims of non-in- ternational armed conflicts	Civilian population <i>(General protection from the effects of hosti- lities, relief to the civilian population, treat- ment of persons in the power of a party to the conflict)</i>
			Execution of the Conventions and the present Protocol <i>(repression of violations of the conventions or of the present protocol)</i>
			Humane treatment <i>(fundamental guarantees, persons deprived of their liberty, criminal proceedings)</i>
			Wounded, sick and shipwrecked <i>(protection and assistance, search, distinctive sign, among others)</i>
			Civilian population <i>(protection of persons and property, prohibi- tion of forced displacement, among others)</i>

Source: Created by the authors with ICRC data (1949a; 1949b; 1949c; 1949d; 1977a; 1977b).

The harmonization between these two types of IHL found common ground with the development of the Additional Protocols to the Geneva Conventions (1977), which set out rules regarding victims and the conduct of hostilities. The International Court of Justice, in its advisory opinion of July 8, 1996, determined: “These two branches of the law applicable in armed conflict have developed such close links that they are considered to have gradually formed a single complex system, now called international humanitarian law.” (Bugnion, 2001)

Perspectives for the conceptualization of IHL

There are various perspectives to define IHL, provided by international organizations and other institutions. Therefore, in terms of academic perspectives, the conceptualization of Swinarski (1990) and Bugnion (2001) is taken up again; In turn, from international organizations, the one elaborated by the UN and the ICRC is studied; from the field of defense, the Ministry of National Defense is used (2017).

Academic perspective

The academic reflections are based on the regulations given by the ICRC. This regulation was established to limit violent acts that could develop in human nature and their interaction in civilization. François Bugnion (2001) determines the following:

Civilizations have established rules to limit violence, even in a situation of war, because placing limits on violence is the very essence of civilization. [...] It can be said that all civilizations have equipped themselves with rules of a humanitarian nature.

Due to the importance they have acquired during the very development of civilizations, IHL rules have become customary (Swinarski, 1990, p. 17). Also, in Figure 6, its functionality is determined.

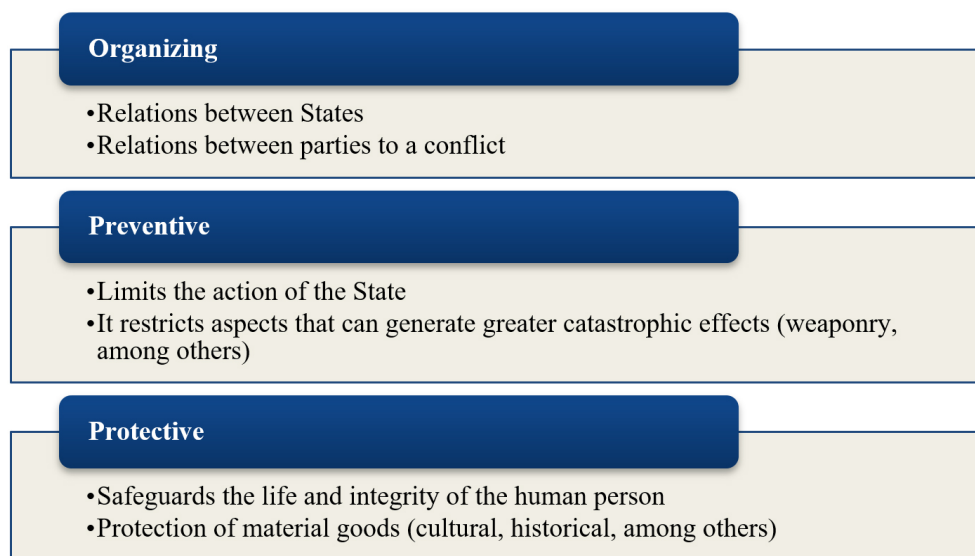


Figure 6. The functionality of IHL.

Source: Created by the authors with data of Swinarski (1990, pp. 21-22).

Perspective of international institutions

The ICRC has been “the prime mover in the development of international humanitarian law” (Bugnion, 2001). This body has assumed the functions set out by Swinarski (1990, p. 79):

- Maintain and disseminate the fundamental principles.
- Assume the tasks recognized by the Geneva Conventions.

- Work for the application of IHL to armed conflict.
- Maintain neutrality and the mission of protecting military and civilian victims.

Other actors work and maintain their mission in favor of IHL by promoting peace and security at the global level, acting as a priority in States in humanitarian crisis or conflict. In the case of Colombia, the internal conflict has been accompanied by States (the USA, among others), international organizations (UN, among others), non-governmental organizations (NGOs), and think tanks (Cubides-Cárdenas, Ramírez-Benítez et al., 2018, p. 201).

The UN (2019) has developed a *corpus iuris* at the international level, with treaties and conventions, to safeguard human rights. To this end, it promotes the settlement of international disputes through peaceful elements such as dialogue, arbitration, or judicial settlement, as stated in Article 33 of the Charter of the United Nations. Concerning IHL, these rules “have played a major role in the efforts to develop international humanitarian law. The Security Council has become exponentially involved in the protection of civilians in armed conflict.” (ONU, 2019)

At the regional-hemispheric level, the Organization of American States (OAS) (2019) has an International Law Department that promotes IHL guidelines for compliance through actions such as assisting the Permanent Council and member states in the negotiation process for IHL resolutions. It also coordinates with the ICRC to support decisions by member states in relation to IHL and maintains a range of courses and seminars in the Americas (OEA, 2020, par. 1-2).

Perspective of the defense field

As for the vision of the Colombian Armed Forces, their conceptual definition of IHL is as follows: “is the body of international law by which armed conflict is regulated; it aims to protect people not involved in the conflict and to establish the means and methods of warfare.” (Ejército, 2017b)

As of 2018, the Ministry of Defense established the *Integral policy of Human Rights and International Humanitarian Law*, to establish a road map for the behavior of the forces in the development of operations, and integrated capacities for the fulfillment of IHL and HR (Ministerio de Defensa Nacional, 2017).

IHL as a potentializer of military operations

As a starting point for determining how IHL enhances MO, the principles of IHL are taken into account with an emphasis on the principle of “humanity” (Figure 7).

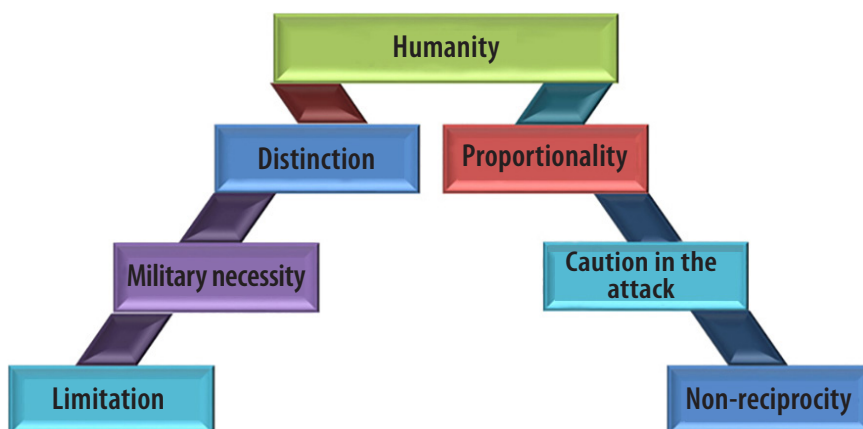


Figure 7. Principles of IHL.

Source: Created by the authors with data from the National Army (2017b).

In developing this fundamental principle, the nature of the opponent can be categorized in two ways: 1) *Humanized*, treated consistently with this categorization, or 2) *dehumanized*, their rights are not recognized. The adversary must be correctly defined, seen, and recognized as human, even if the interest is not shared. This enhances the power of combat and the MO; it legitimizes the forces' actions and the State that applies the IHL rules, making it transversal in the preparation of MO (Figure 8).

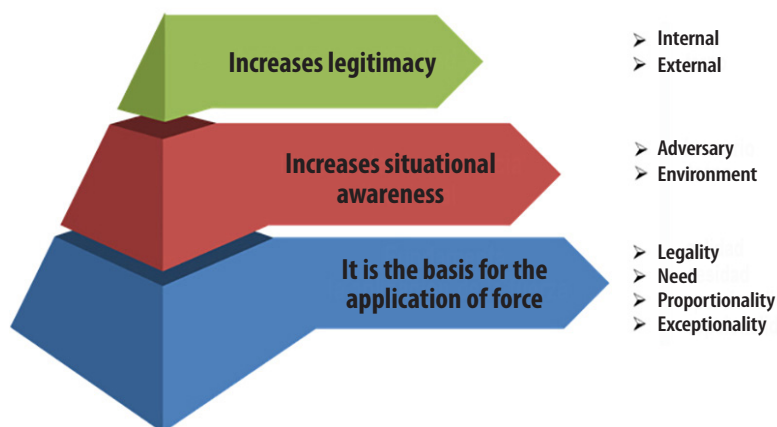


Figure 8. IHL as MO enabler.

Source: Created by the authors with data from the National Army (2017b).

MO are enhanced by IHL, whose application begins with the use of force. In a VICA context such as Colombia's, the threats facing the State are mutating. Along with

the principle of humanity, the principles of “proportionality and distinction set limits to security policies” (Corte Constitucional, 2002), which does not imply ignorance of the need and applicability of others. In this sense, it is worth asking what has happened in the development of the conflict in Colombia. As a society, Colombia has reflected on finding a legal framework at one with the developing situation for the public officials in charge of the Government’s public policy.

Thus IHL increases situational awareness because it establishes where the opponent is, what he is like, and how he must develop in a context to defeat him. Moreover, both internally and externally, it gives legitimacy to MO.

Future scenarios of military operations and their relationship to IHL

The development of new forms of warfare (hybrid, cybernetic, among others) represents a challenge for MO in the future. In the face of this, through IHL, new ways are sought to fulfill the purpose that has been historically preserved: limit the violent actions that take place in the conflicts, regulate the actions of the combatants and protect the civilian population. Compliance with IHL is essential in confrontational environments. This implies respect for ICRC provisions such as the distinction, that is, the obligation of the opposing parties to identify and differentiate themselves from the civilian population.

The ICRC stresses that modern MO are shaped by the fighting generated by armed conflicts, peace support operations, and operations to maintain and protect constitutional purposes. Therefore, IHL is configured as an axis in their planning (Mulinen, 2014).

Projection of future scenarios for the development of military operations

The transformation of confrontations, of means and modes, has configured new scenarios. Kaldor (1999) defined “*new wars*” as those that have developed since the post-Cold War in which several aspects have been reconfigured because of globalization and the interaction it facilitates. Among these new scenarios, cyberspace, where confrontations can be generated on various scales, with political, economic, social, and other effects.

Kaldor (1999) exposes the characteristics of state and non-state actors, as well as the effects that the actions have on the civilian population. In this regard, IHL is of great importance in the regulation and protection of human rights. Moreover, illegal groups resort to terrorism and counter-insurgency tactics and develop actions of illegal economies.

Two main features characterize the confrontations that are currently taking place: 1) the use of *advanced technology*, which incorporates developments in defense such as precision weapons, information warfare, unmanned means, anti-missile shields, among others; and 2) a “mix of terrorism and low-intensity, conflict,” in which “ideas” are projected as an essential element (Benedicto, n. d., p. 19). In this context, a “gray zone” is evident where new hybrid conflicts may appear, requiring the military to specialize in dealing with them (Figure 9).

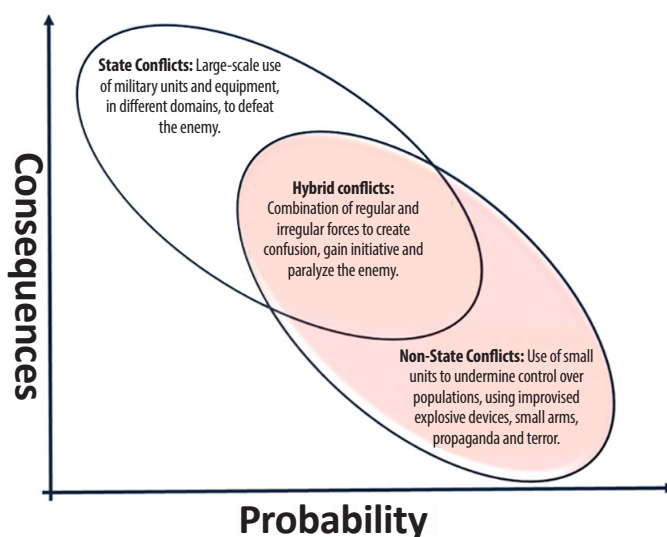


Figure 9. Future MO scenarios.

Source: Created by the authors with data from The White House (2015).

Thus, at present there are various scenarios in which MO are developed or can be projected and in which IHL should be a fundamental norm for regulation. The following is a general description of these projections in various fields.

Terrestrial

The convergence of criminal, terrorist, and insurgent actors and means generates a space in which illegal organizations act synergistically to affect states and ignore the norms that preserve the dignity of human beings in scenarios of armed conflict. It is, therefore, a challenge for armies to specialize in addressing these threats, such as the use of improvised explosive devices or unconventional weapons by such organized armed groups (Ardila et al., 2017; Díaz et al., 2019).

Maritime

The use of maritime means to develop criminal economy activities by illegal groups requires building a governance space in the international system to join efforts and integrate means with a global reach. Therefore, the proper implementation of a maritime strategy for the achievement of the national interests of the State is fundamental to the scope of a national project (Uribe et al., 2016). In this sense, capacities are required to strengthen naval power: a navy that can exercise effective control of the territory (Rivera-Páez, 2018).

Air

Air defense development is an essential issue for states. Technology has been fundamental to the development of autonomous weapons in the context of confrontations. These weapons have opened up a space in which the responsibility to respect human rights and IHL is not clearly established.

Cybernetics

At the beginning of the 21st century, technological advances in information and communication have represented a milestone known as “the third wave” The first is linked to the agrarian revolution, and the second, caused by the industrial revolution (Toffler, 1980). With globalization, this new scenario has generated new forms of global interaction and caused barriers, such as time and space, to become blurred. At the same time, it has also represented an environment that illegal groups have taken advantage of The first is illicit actions. In this respect, Becerra and León (2019) propose:

The fourth technological revolution broadened the spectrum of threats to which states must respond. An example of this is represented by the terrorist attacks [...], cyberterrorism has become a global weapon that threatens the state, business emporiums, and individuals. (p. 62)

The new capabilities provide a *technological advantage*, which can be exploited if applied with primacy and speed. Thus, maintaining greater power over the opponent is a deterrent: “this technological battlefield has to be consistent with the geopolitical situation, strategic interests, and achievable resources” (Fontenla, 2008, p. 131). The North Atlantic Treaty Organization (NATO) produced the *Tallinn manual on the international law applicable to cyber warfare* in 2013 (Schmitt, 2013), resulting from a study of the implications of IHL in cyber-armed conflict. Although this manual is not binding on states, it is an important step forward for regulation.

Approach to military operations and IHL in the Colombian State

In Colombia, during the government of Juan Manuel Santos, the aspect of security was complemented with justice, democracy, and peacebuilding, as expressed in the National Development Plan (PND in Spanish) 2014-2018 “All for a New Country.” In Chapter VIII, this PND sets out objectives for the guarantee of rights and the duty of the State to protect the population (Departamento Nacional de Planeación [DNP], 2014). Garay and Ramírez-Benítez (2017) summarize the following strategies of this PND:

[...] prevention and fight against crime, implementation of technologies for security, strengthening police presence, protection of critical infrastructure [...]. Highlighting deterrent capabilities for national security and defense, incorporating cyber defense, intelligence systems.” (p. 443)

Later, with the government of Iván Duque Márquez, security has been linked to legality, entrepreneurship, and equity, as consolidated in the PND 2018-2022 “Pact for Colombia. Pact for Equity” (DNP, 2018). The articulation of the PND with the guidelines of Agenda 2030, where the Sustainable Development Goals (SDG) and the aspects of the Organization for Economic Cooperation and Development (OECD) are grouped, should be taken into account. Thus, security is linked to legality. In addition, there is an emphasis on “The Peace that Unites Us,” which concentrates on areas of action related to SDG 16: “Peace, justice and strong institutions” (Figure 10).

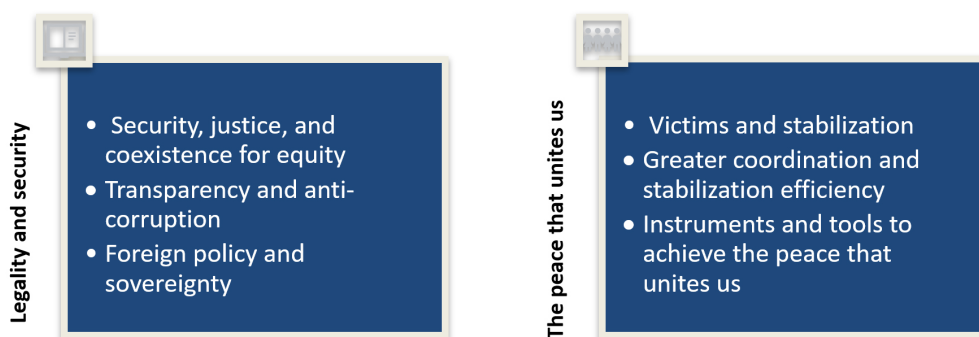


Figure 10. Main areas of two components of the PND 2018-2022
Source: Created by the authors with data from the PND (2018).

On the other hand, the current government proposes the “Defense and Security Policy for Legality, Entrepreneurship and Equity,” to provide guidelines on how to address security challenges by adopting a multidimensional approach, resulting in a number of protected areas such as water, biodiversity, and the environment as the main and prevailing interest.

In the Defense sector, the axis of public policy is the strengthening of the capacities of the public forces to face conflict scenarios, as well as challenges and risks to security in which diverse forms of illegality converge (Cubides-Cárdenas et al., 2017, p. 112). This convergence refers to how different threats are related in terms of their means, objectives, or actors, such as insurgent activities and the crime of drug trafficking. Added to this is the complexity of new technologies, where criminal structures generate new threats that the State has to face (Ardila & Cubides-Cárdenas, 2016; Cancelado, 2019). Given this, the National Army is in a transformation process, guided by the multi-mission approach, which focuses on various areas of action for stabilization and consolidation, oriented, expressly by Damascus Doctrine. It constitutes the doctrinal source for structuring the bases of leadership and strengthening of the Military Forces, based on their capabilities and development in complex scenarios (Acosta, 2019).

The main characteristics of the National Army in terms of foresight are mentioned below, in consideration of a document from the Red de Seguridad y Defensa de América Latina (Resdal) prepared by Donadio et al. (2018), as well as other data from the National Army.

Education

In this area, as a strategy for strengthening education, training, and military doctrine, There is the “Minerva” Strategic Military Education Plan (2015) of the Education System for the Armed Forces, based on the Damascus Doctrine for the transformation and projection of the Army into five essential pillars (Figure 11).

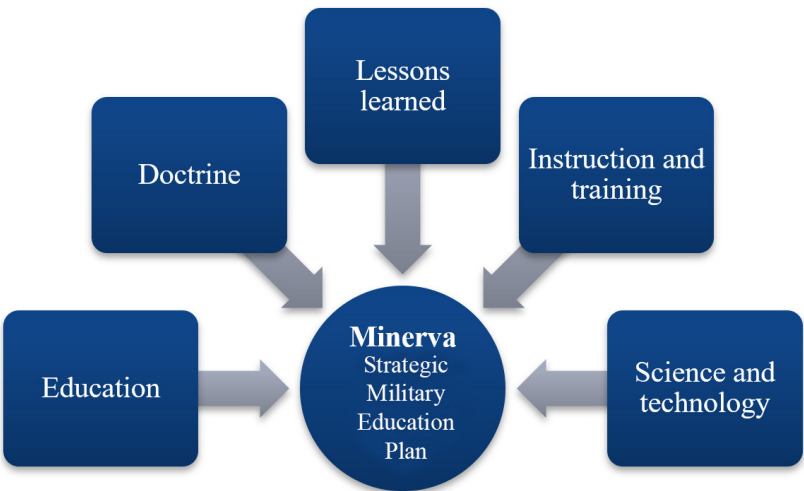


Figure 11. Education Pillars of the “Minerva” Strategic Education Plan
Source: Created by the authors with data from Donadio et al. (2018, p. 1).

This approach involves processes to promote human rights and IHL in order to “form integral soldiers with principles, values, virtues and professional ethics; reflective, with skills to develop complex analysis with military criteria” (Donadio et al., 2018, p. 1). The purpose is also to develop capacities to counter “criminal phenomena associated with drug trafficking and the illicit exploitation of natural resources; as well as in the defense and support of civil authorities.” (p. 1)

International scope

The support of international missions for the maintenance of peace and the export of security is essential. Security export is a key cooperation factor, as defined by Tickner (2016), through the exchange of knowledge, training, among other aspects of defense favorable to the security of the State¹.

As stated by Garay and Ramírez-Benítez (2017), the strengthening of cooperation is timely to counteract threats in the regional environment, such as transnational organized crime, drug trafficking networks, among other threats². In this sense, partnerships to address them will be strategic to improve hemispheric security (p. 455).

For example, the Colombian state must strengthen alliances, such as its involvement as a global partner of NATO in 2018, favoring its “geopolitical projection and allows a greater rapprochement in cooperation with the international organization, in order to counteract common regional and international challenges” (Farfán et al., 2019, p. 152). In addition, it is important to approach the multinational doctrine for the conduct of multilateral operations (Ejército Nacional, 2017a). In this regard, more cooperation agreements are expected with peers in the región, such as the United States, Mexico, and Chile, and greater participation in peace missions (Donadio et al., 2018, p. 2).

Coordination with other institutions

The “conjuncture” and the coordination have been two elements strengthened by the National Army. In the first place, the “conjunction” of the Army with the National Navy and the Air Force has boosted the development of joint operations. In this regard, a precedent in 2004 was the creation of the first Joint Command of the Military Forces (Donadio et al., 2018, p. 2). This has been followed by the recent creation of the Joint

1 This export of security occurs from four areas: operational, organizational, strategic, and educational. In the educational field, we work in areas such as training in pedagogical, methodological, and technological aspects for the development of instructors and trainers of military and police doctrine.

2 Borrero (2017, cited in Cubides-Cárdenas, Caldera et al., 2018) groups the current threats in the field of security: “a) traditional, b) armed insurgencies, c) terrorism, d) organized crime, e) uncontrolled migrations” (p. 118).

Doctrine Center at the War College. These are actions that represent the projection of the Military Forces, whose role is fundamental to other objectives of the State due to their particular characteristics and powers:

The position in the territory and the capacity of the military to be present in the territory, be it in the urban, rural, border and maritime environment, allows them to be close to the communities of the different regions in the Colombian geography. This presence of the military remains one of the most common forms of State representation. (Caldera et al., 2019, p. 215)

Figure 12 shows the levels of inter-institutional coordination. Interaction with the National Police and the Attorney General’s Office, among other institutions, is particularly important for MO and security actions. Currently, the Military Forces are in a process transforming for stabilization, consolidation and interagency development with State agencies, including intelligence elements, among others (Cubides-Cárdenas, Ramírez-Benítez et al., 2018). In this sense, the Unified Action of the State is developed according to the Plan Victoria Plus and now the Bicentennial Plan, as courses of MO actions that articulate the means and modes available for the fulfillment of two purposes: the interest of the State³ and government objectives.

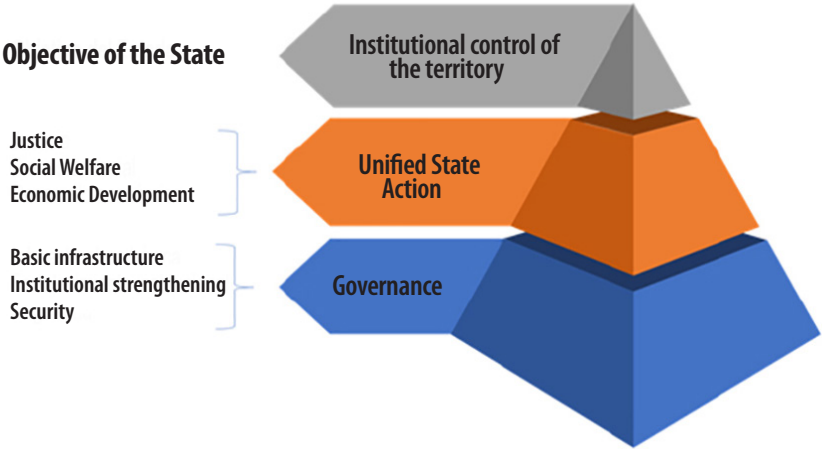


Figure 12. Articulation for the increase of safety conditions.
Source: Caldera et al. (2019).

3 The “national interest” is conceived as being vitally or permanently linked to the survival of the State; Following Reynolds (1977), “national interests” are determined, in the short term, as important proximate goals (Ramírez-Benítez & Ardila, 2020).

Conclusion

MO are planned within the framework of goals to be achieved, with available means or necessary resources, articulated in ways to achieve the desired end. In a VICA scenario like Colombia's, potential divergences between the parties can transcend because of their magnitude, temporality, and impact, which can generate a conflict that, if continued, can escalate into armed conflict and eventually war.

In this context, the relevance of IHL in the current regulatory framework (The Hague and Geneva) is fundamental to humanize and diminish the impacts of the confrontations between States or with State actors. As for harmonizing between military objectives and the humanization of conflicts, these find common ground in the additional protocols to the Geneva Conventions (1977). They lay down rules regarding victims and the conduct of hostilities. In turn, authors like Bugnion mention that these two currents are so linked that they have built a unique and complex system: IHL. This system establishes principles that highlight humanity by recognizing the adversary as human to maintain respect for human dignity.

With the transformation of war, new challenges have been generated for MO in traditional and new scenarios (land, sea, air, and cyber) that have become a challenge for IHL. Now, issues in this branch of the law that previously did not arise in the course of war must be regulated to fulfill the ultimate goal of limiting the actions of confrontations and protecting the civilian population. In the Colombian case, in the military sphere where operations are carried out and in the defense sector, the main axis is the strengthening of the public force, in order to face scenarios marked by conflict in which multiple challenges to security converge.

In the complex environment that characterizes the contemporary international system, the respect for the rules of IHL is constituted as an enhancer of the combat power in MO because it gives more legitimacy, improves situational awareness, and gives a foundation to the use of force. In particular, in hybrid conflict scenarios, where non-state actors do not comply with the limits of IHL, this creates a challenge in all areas of confrontation for the forces engaged in fighting them.

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