

-Humanitarian Law RULES!

Center for the Study of Humanitarian Law

Newsletter

February 2018

The New Development of Technology leads to the challenges of International Humanitarian Law Application

In some conflict these days, the military operation has been involved of mean and method of warfare that is not specifically prohibited, or in other word, not specifically stipulate by the law. The advent of technology poses some significant challenges toward the application and interpretation of International Humanitarian Law (IHL). They are, namely, remote controlled drones, cyber warfare, nanotechnology and autonomous weapon, etc.

The use of remote controlled drones, for example, in Pakistan, Afghanistan and Yemen led to the question of applicability of IHL toward these operations. It is, however, the concerning on reliability of these weapons whether it could distinguish between legitimate and illegitimate object, take precaution before or during the operation, and carry out the proportionality assessment effectively.

Meanwhile, it is also not clear whether the use of cyber system to attack would also fall under the application of IHL. There are questions that need to be asked in regarding to the cyber operation. How precaution should be taken to avoid or minimize the damage? How the proportion assessment should be carried out? How can it distinguish or make sure that the attack will only weaken the enemy, or not confer any significant problems to the civilian? How does the IHL apply in the online or cyber space attack in regarding to the duty to distinct between combatants or civilian?

All of these significant issues shall be carefully explain or answer base existing IHL treaties or Customary International Humanitarian Law. In this sense, however, all the mean of warfare shall be comply with the Article 36 of Additional Protocol I to the Geneva Convention:

In the study, development, acquisition or adoption of a new weapon, means or method of warfare, a High Contracting Party is under an obligation to determine whether its employment would, in some or all circumstances, be prohibited by this Protocol or by any other rule of international law applicable to the High Contracting Party.

All in all, even there are no specific prohibition by or law govern on the development of new mean and method of warfare, but they still subject to comply with the basic principle of IHL such as Principle of Distinction, Principle of Proportionality, and Duties to take precaution.

LIBRARY HOURS

February 2018

Mon to Fri: 8.45am – 5.30pm

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