

Regulating Artificial Intelligence in Modern Warfare: Challenges for International Humanitarian Law

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DOI: <https://doi.org/10.51584/IJRIAS.2026.11060266>

Received: 27 June 2026; Accepted: 02 July 2026; Published: 15 July 2026

ABSTRACT

Artificial Intelligence (AI) is transforming the way contemporary warfare is conducted. The advent of autonomous weapon systems, AI enabled drone technology, algorithmic surveillance and targeting platforms is changing the conduct of combat operations but it brings with itself fundamental legal and ethical concerns under International Humanitarian Law (IHL). This article uses comparative case study analysis within the framework of qualitative doctrinal research. The research explores independently verifiable reports that are publicly available through sources related to the Russia Ukraine conflict, and other contemporary AI-assisted warfare cases in Gaza or further examples of emerging AI enabled technologies examined from an IHL perspective. These conclusions are grounded in the legal analysis of primary international legal instruments, namely: Geneva Conventions, Additional Protocol I, custom International Humanitarian Law, as well as relevant United Nations documents and academic literature reviewed by peers. The article refrains from taking individual conflict reports as evidence to consider how cyber and AI enabled military technologies might compromise the fundamental IHL principles of distinction, proportionality, military necessity, humanity and meaningful human control through careful consideration of available information. These future principles will be translated into evaluative standards for examining the legality of AI assisted targeting systems. The paper continues to explore the justice gap that can result when autonomous or AI associated systems affect life and death targeting, with oversight from a human being that is not engaged. It claims that while AI may increase optimization and decision support, this poses major challenges for contemporary international legal institutions regarding transparency, accountability and meaningful judicial control of ever more autonomous military systems. The article finds that to remain compliant with International Humanitarian Law, international regulatory development must continue - bolstered by evidence based assessment, strict weapons review and internationally agreed standards on meaningful human control, transparency and accountability.

Keywords: autonomous weapons systems, international humanitarian law, artificial intelligence, distinction, proportionality, accountability gap, lethal autonomous weapons

INTRODUCTION

Militarization of AI is arguably among the most critical legal and ethical issues in modern warfare (Russell and Norvig 2021; ICRC 2021). Over the past decade, breakthroughs in machine learning, computer vision, and robotics have allowed US AI technologies to assist in much of what are considered intelligence analysis, targets selection for strikes or cutouts, autonomous navigation (self-driving), battlefield surveillance on modern battlefields via drones and unmanned ground vehicles (UGVs), aerial combat systems as RPA flying through enemy fliers munitions reenacted by AI predictive analytics—the list goes on to include proper decision making through operational cognition (Scharre 2018; US DoD Directive 3000.09). Although these advancements might instigate greater efficiency and precision in military operations, they also create serious questions of IHL compliance especially where AI systems engage or perform tasks that were previously reliant on human legal judgment (Schmitt and Thurnher 2013; ICRC 2021).

The advent of fully or partially autonomous weapon systems (AWS) necessitates a serious reckoning with what lies at the heart of IHL. The laws of war, codified in their most fully developed form in the 1949 Geneva Conventions and their 1977 Additional Protocols, require parties to a conflict at all times distinguish between

combatants and civilians, refrain from means and methods of warfare that are inherently indiscriminate, minimize civilian harm anticipated due to military operations and avoid creating collateral damage that would be excessive relative to the concrete/significant military advantage anticipated. That is, whether such AI systems can consistently make such contextual, dynamic, and morally weighted judgments in complex combat environments remains hotly contested (ICRC 2021; Human Rights Watch 2012).

The law of armed conflict, if one understands it principally through its two most well-known manifestations (the Geneva Conventions and Additional Protocol I), was created with the understanding that human decision makers would be largely involved in deciding when force should be used ((Additional Protocol I; Sassòli 2014). This assumption is challenged by the increasing integration of AI into military operations, introducing degrees of autonomy to targeting and engagement processes, thus posing thorny questions regarding legal responsibility, accountability, and effective human agency.

These developments have led to growing concerns by governments, international organizations, scholars and civil society over autonomous and AI-assisted weapon systems (UNGA Resolution 79/62; CCW GGE 2024). While existing IHL principles are applicable regardless of the weapon used, there remains a significant debate over whether emerging AI technologies can actually meet the legal standards for distinction, proportionality, military necessity, precaution and humanity in a complex operational environment?

Based on qualitative doctrinal legal research method and comparative case study analysis. The doctrinal element includes an analysis of relevant treaty provisions, customary international humanitarian law, international jurisprudence, documentation from the United Nations and International Committee of the Red Cross publications and peer-reviewed academic literature. The Russia Ukraine conflict and the Gaza conflict are selected for the comparative case studies as they represent some of the most thoroughly documented examples of AI assisted military technologies available in open source material to date. Contemporary reporting on the war in other conflicts is only discussed where corroborated by reputable and publicly available sources.

As opposed to reconciling contested battlefield claims, this paper examines publicly available evidence to determine the ways in which AI-enabled military technologies either align with or compromise centuries of established International Humanitarian Law principles. For the purposes of analytical consistency, this legal assessment is carried out with regard to four evaluative criteria rooted in IHL, such as distinction, proportionality, military necessity and meaningful human control and accountability. These criteria outline the analytical methodology employed throughout the paper to measure whether an AI assisted targeting system is legally compatible.

This article does not attempt to ascertain the historicity of conflicting military events. Rather, it investigates the extent to which archival records of conflicts and evidence available in the public domain can demonstrate challenges to the law that are arising from an increased use of AI on the battlefield. This strategy aims to ensure the methodology remains neutral analysis while avoiding unwarranted conclusions of law that lack sources that can be verified.

The rest of this article is laid out like this. Part three analyzes the main use of AI in battle today. In Part four, these technologies are assessed in light of the fundamental principles of International Humanitarian Law. Part five discusses the challenges of accountability regarding autonomy decisions. Part six provides an overview of international regulatory efforts today. Lastly Part seven provides suggestions for conclusion and recommendations of strengthening the international governance of new types of warfare enabled by AI.

RESEARCH METHODOLOGY

Research Design

This study is a qualitative doctrinal legal research combined with comparative case study analysis. The doctrinal method is used to analyze the legal frameworks surrounding the new generation of AI enabled military technologies by relying on treaties, customary international law, judicial principles and scholarly literature. It

uses a comparative case study analysis to investigate how the operation of AI technologies has been recorded in contemporary armed conflicts and how such developments challenge contemporary legal norms.

Sources of Data

In the research, only secondary sources were used. This primarily consists of the primary legal materials which are Geneva Conventions of 1949, Additional Protocol I (1977) / Rome Statute of the International Criminal Court, United Nations General Assembly resolutions and documents published by the International Committee of the Red Cross (ICRC). Secondary materials comprise of peer reviewed journal articles, academic books, policy reports, official government publications and documents released by acknowledged international bodies.

Case Selection

This selection of cases was not random, but purposeful. The Russia Ukraine conflict and the Gaza conflict were selected as they are two of the most well documented examples known by the research authors to date regarding AI assisted military technologies in warfighting, and to be available freely in the public domain. References to other modern military operations are included only where an accurate publicly available reference exists and since they are used solely to demonstrate broader technology trends, do not form the basis for contested factual conclusions.

Data Validation

The increasing dynamism tends us to be very careful regarding facts. Where possible, information has been checked with multiple independent and credible sources, including reports produced by international organizations, governmental agencies and peer reviewed scholarship. Where conflicting accounts exist, the article draws no definitive factual conclusions and instead assesses the legal ramifications of reported AI technologies use.

Analytical Framework

The legal analysis I undertook in this study was thus based on an analytical framework that relies primarily on the critical principles of International Humanitarian Law (IHL) Instead of a purely conceptual discussion, the study appraises AI enabled military systems against five legal criteria that mirror the core obligations IHL imposes. This framework provides a uniform foundation to evaluate the legal equivalence of the AI technologies discussed in these case studies.

The *first* principle is the principle of distinction: can an AI system be reliably used to distinguish combatant and military objectives from civilians and civilian objects in a variety of operational environments? The *second* of these is proportionality, which gauges whether AI can strip considerations about expected civilian casualties into a calculus balancing these against the concrete and direct military advantage that an attack may be expected to have.

Third, the principle of military necessity asks: Is the force limited to its legitimate purpose and are AI enabled technologies only utilized in situations referred to as operationally necessary and lawfully justified. The *fourth* criterion is meaningful human control, which measures whether the human decision maker involved in approving or carrying out an attack retains sufficient authority, information and time to permit them to authorize, override or veto the use of lethal force before an attack proceeds.

The *fifth* criterion is accountability, which looks at whether decisions made by a human as the final decision maker involving AI enabled military systems can be reconstructed, and - if necessary - litigated under existing statutes of liability and tort law where it could be ascertained that there were identifiable responsible actors for whose actions either individual civil or criminal liability exist.

These criteria taken together offer a structured and systematic assessment to determine the degree of alignment between AI enabled military systems and International Humanitarian Law. Utilizing this framework throughout

the article enhances methodological rigor and promotes a more systematic, clear and evidence based legal assessment of the issues regarding artificial intelligence in contemporary armed conflict.

Scope and Limitations

The focus of this study is the legality of AI enabled warfare in International Humanitarian Law. It does not seek to independently verify contested battlefield events, or assess the military effectiveness of certain weapons systems. Due to the high percentage of operational information that is classified or contested, this analysis necessarily focuses more on legal principles than settled, factual determinations. Note that the conclusions should be interpreted as normative legal reasoning based on publicly available evidence rather than an empirical description of specific operations.

Artificial Intelligence in Modern Warfare: Systems, Capabilities, and Active Deployments

Selected case studies demonstrating the current military use of AI functional technologies are described in this section. The selected case studies are frequently mentioned in academic literature, reports from international organizations, and publicly available governmental data sources. It is not to determine the truth of each operational assertion made in times of armed conflict, but rather a look into how certain documented uses of AI technologies create legal scenarios under International Humanitarian Law.

Autonomous Weapon Systems Defined

A fully autonomous weapon system refers to a spectrum of military technologies, from human-supervised systems that automate specific tasks while requiring a human in the consent loop, to fully autonomous platforms that select and engage targets without any input from a human being in the engagement process (Scharre 2018). According to the International Committee of the Red Cross (ICRC), autonomous weapons systems are weapon systems that can autonomously and independently select and engage targets based on sensor processing, along with pre-activated instructions for use (ICRC, "Autonomous Weapons Systems" 7). According to the US Department of Defense Directive 3000.09, there are "human-supervised autonomous weapon systems" which require human confirmation in advance of lethal action and "fully autonomous weapon systems," capable of completing missions without human beings involved (US DoD Directive 4).

AI in the Russia-Ukraine War

As the war in Ukraine enters its fifth year, it has become the most intense real-world testbed for what AI-enhanced military technology can do. In a single year (2024), Ukraine developed nearly two million drones, 96.2% of them within the country (Bondar 8). Systems with AI-enabled targeting have produced three to four times the engagement of platforms run through traditional means (Cairo Review 2025). Ukraine's "Delta" situational awareness platform integrates drone video, satellite imagery and open-source intelligence in real time, drastically shortening decision cycles (US Army War College 2025).

Probably the most operationally significant development happened in December 2024, when Ukrainian forces carried out the world's first fully unmanned ground combat operation near Lyptsi, during which dozens of uncrewed ground vehicles fitted with machine guns and munitions executed a coordinated assault without infantry involvement (Bondar 14). In June 2025, Ukraine's Operation Spiderweb invaded Russia using AI-guided drones that were smuggled into Russian airfields to destroy 34% of Russia's long-range bomber fleet, causing \$7 billion worth of damage (US Army War College, 2025).

Russia has pursued simultaneous advances in its own autonomous capabilities, fielding the Lancet-3 loitering munition, with computer vision for semi-autonomous target engagement, on a widespread scale during the Ukraine War (Arms Control Association 2025; CSIS 2025). Both sides have developed fiber-optic-guided drones to bypass electronic warfare countermeasures and both have integrated AI into cyberattack and cyber-defense operations (Arms Control Association 2025).

AI-Assisted Targeting in Gaza

The use of apparently AI assisted targeting systems in military actions surrounding the armed conflict in Gaza since October, 2023 has garnered much international interest. Publicly available reports indicate that the IDF has used AI supported technologies to aid intelligence integration and target identification. The "Gospel" (HaEvangelist) systems are the systems that have gained the most publicity, with Journalists, Rights groups and Academic commentators exploring details in reports regarding them - together with its provenance system called "Lavender".

The "Gospel" system has been said to analyse large amounts of intelligence data in order to create lists of potential sites linked to Hamas, even reportedly designating tens of thousands of potential targets in the early days of the conflict (Human Rights Watch, "Automated," 4). Likewise, media and academic sources have argued that the "Lavender" system was utilized for the assistance of suspected Hamas operatives identification but did not reach a level where it could independently authorize strikes without human operators reportedly responsible for authorizing final individual strikes although both the extent and quality of human review are hotly debated (Taddeo and Blanchard 2024).

Several of these reported applications have spurred considerable humanitarian, legal and ethical debates (UN Special Rapporteur 2024; Human Rights Watch 2023). Where large numbers of targeting recommendations are generated in shortened operational timeframes, human rights organizations, as well as UN Special Rapporteurs and academic legal scholars have raised questions as to whether AI assisted targeting processes can reliably comply with the separate legal principles of distinction and proportionality. Opponents of Kahn et al argue that allegations of civilian casualties in Gaza point to the need for more specific individual proportionality assessments and genuine meaningful human control over targeting (Asaro 690). On the contrary, Israel Defense Forces hold that all operating decisions (intended to protect innocent lives) are made by humans and implemented according to International Humanitarian Law ((Israel Defense Forces Official Statement 2024).

These publicly reported records are not considered definitive determination of legal compliance or non compliance for this study. Rather, they provide examples to study the challenges AI assisted targeting systems pose to: distinction, proportionality, accountability and meaningful human control-- principles under International Humanitarian Law.

AI in the 2026 US-Israel-Iran Conflict

The military encounter in early 2026 between the United States, Israel and Iran has been displayed in recent years both as an example of modern warfare increasingly reliant on Artificial Intelligence and machine learning (Brookings Institution 2026; CNN 2026). Publicly available reports indicate AI-assisted systems were used to augment intelligence analysis, target selection, operational planning and air defense coordination during the war (Al Jazeera "Death Toll" 2026, CNN 2026). While many more operational details remain contested or unverified, the conflict shows are an increasing integration of AI enabled technologies in modern high intensity warfare.

However, given the speed and scale of military operations reported so far, much legal discussion has arisen on adherence to the principles of distinction and proportionality under International Humanitarian Law. AI assisted targeting systems have been designed to process large amounts of intelligence to provide targeting recommendations in significantly reduced operational timeframes, and this raises important questions as to whether individualized legal assessments can take place prior to each attack. This article will analyse not so much if AI systems themselves determine the legality of military operations, but rather whether their deployment conventions sufficiently enhance meaningful human judgment and legal review compatible with International Humanitarian Law.

Public reports suggest that AI enabled technologies for target recognition, missile defense, drone coordination and battlefield data integration were increasingly incorporated into offensive and defensive military operations (AJC 2026; CNN 2026). But if these technologies do improve operational efficiency and response time, it increases the need for transparency, explainability and appropriate human interaction or control to ensure compliance with International Humanitarian Law.

Claims that civilian casualties and attacks against civilians objects do not respect the principles of distinction and proportionality have emerged (Al Jazeera "Death Toll" 2026). As many operational facts are still disputed and independent investigations into those operations continue, these reports are treated for the purposes of this study as illustrative case studies in the legal challenges posed by AI enabled warfare to show how such accountability problems could arise, rather than final determinations of legal culpability.

Analytical Framework

In order to maintain analytical consistency across this study, a generic case analysis framework based on core tenets of International Humanitarian Law (IHL) is established as the basis for evaluating each selected case studies. Instead of a purely doctrinal analysis, the research discusses actual legal standards to determine if AI military systems can function under the confines of existing IHL obligations.

The first of them is based on the principle of distinction which examines whether an AI system can effectively and consistently differentiate between combatants and military objective as opposed to civilians and civilian objects arising from factors about the densely complex or dynamic battlefield. The second criterion is the principle of proportionality, which determines whether a system can sufficiently fulfill assessments regarding imminent civilian harm in comparison to the unique and immediate military advantage expected from an attack.

Third, military necessity, or whether AI-enabled technologies are used only as long as necessary to achieve a legally-recognized objective and that their employment is still confined to lawful use. The fourth criterion is meaningful human control, which considers whether human operators have enough information, authority, judgment or opportunity to authorize a particular use of lethal force prior to an attack.

This article organizes its case studies in accordance to the same four criteria in order to provide a systematic framework which can be used to assess if particular AI enabled military systems fall within existing International Humanitarian Law guidelines. This provides a stronger methodological basis for the study and allows for a more systematic, transparent and evidence based legal analysis of emerging concepts focused on AI technologies in relation to modern warfare.

The Principles of International Humanitarian Law and Their Compatibility with AI Systems

Analytical Framework for Assessing AI Compliance with IHL

Stepping away from abstract legal argumentation, this article applies a structured analysis based on the foundational principles of International Humanitarian Law-Core IHL (CIHL) to evaluate AI enabled military systems. For each of the selected case studies, the judgment is evaluated according to a framework of legal criteria corresponding with IHL's obligations. The framework does not go about trying to establish whether or not a particular military operation is lawful. Instead, it gives rise to a method for assessing whether military systems with AI capabilities have traits that assist or impede compliance with the tenets of International Humanitarian Law.

The first test is the principle of distinction, which considers more generally whether any given AI system is able to reliably distinguish combatants and military objectives from civilians and civilian objects. This evaluation reflects the precision of target recognition by the system, its competence in distinguishing civilians and managing uncertainty during complicated operational environments.

The second is the principle of proportionality, which asks whether an AI system can reliably assist in assessments of anticipated civilian harm against the concrete and direct military advantage anticipated from an attack. Specifically, we focus on the Government systems ability to assess risk to civilians, assess estimates of collateral damage and engage in meaningful human legal review prior to committing the use of force.

The third component is necessity - are military necessity assessments in place to ensure that AI-enabled technologies are only used for a legitimate military purpose and their use remains limited to appropriate operational purposes? This assessment takes into account mission limitation, the relevance of selected targets to military objectives, and the operational rationale for using AI enabled systems.

Finally, meaningful human control is a criterion that explores whether human operators are provided enough context, decision authority, or the means to step in and modify or prevent lethal force - before the attack occurs. This also takes into account whether it permits human operators to intervene effectively during decision making process.

Finally, the framework looks at accountability: whether a decision generated or supported by AI systems can be traced back so that it can withstand meaningful judicial scrutiny. The assessment itself primarily considers explainability and traceability, as well as the existence of audit logs and transparency of AI assisted decision making - all elements necessary in ensuring legal accountability under International Humanitarian Law.

This article presents a systematic frame of reference for evaluating the degree to which AI enabled military systems are compatible with International Humanitarian Law, using these criteria across all applicable case studies. This analytical approach also provides a stronger methodological basis for the study, increases analytical transparency while allowing a more robust and evidence based legal assessment of emerging AI technologies in modern armed conflict

The Principle of Distinction

Article 48 of Additional Protocol I to the Geneva Conventions states that "the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and as such shall direct their operations only against military objectives" (Additional. 48). The distinction principle is also considered to be custom International Humanitarian Law binding on all States regardless of whether or not they are ratifying parties (Henckaerts and Doswald Beck, Rule 1).

Applications of this principle in practice must be bounded by legal judgement applied within a specific context, and exercised dynamically (ICRC Interpretive Guidance 2009). Civilian status can be altered in the course of hostilities - combatants will have civilian immunity at least initially. An example would be that a combatant who surrenders or who is hors de combat regains protection under International Humanitarian Law, and that civilians only lose their protection for the duration of direct participation in hostilities. These finding must be made on the basis of intent, conduct, context and an ever evolving operational battlefield environment—factors which modern AI systems yet struggle to reliably assess. Machine learning algorithms can process huge amounts of data quickly, but are likely to make false classifications in new, incomplete or unclear operational contexts, increasing the risk of misidentifying civilians or other persons protected by international humanitarian law (ICRC, Autonomous Weapon Systems 44).

One of those areas, allegedly the most worrying according to different reports is an artificial intelligence system used for targeting operations named "Lavender" - that Israel has reportedly used during the escalation in Gaza. Publicly available investigations into the system suggest that it produced targeting recommendations based on data about a target's behavior and association (Taddeo and Blanchard 2024) nevertheless this raises significant legal questions over whether statistical inference can replace an individualized legal analysis under International Humanitarian Law. Though the exact workings of such systems are hotly contested and not always independently verifiable, they are emblematic of a wider issue surrounding the reliability of AI-assisted target identification within complex conflict settings.

Others query however some current AI technologies might be sufficiently contextual for the authorized commonplace of distinction. In Sassòli's view, since there have been no use of deadly weaponry by AI systems, until an AI systems has shown through a wide range of testing and through its decisions that it is capable of legal judgment with the level of discretion and nuance exercised by trained military decision makers such as generals (Sassoli 331), they cannot comply to the principle of distinction.

Using the analytical framework developed in this study, reformed compliance with the principle of distinction rests on whether an AI enabled military system can effectively distinguish combatants and military objectives from civilians and civilian objects under various operational conditions. This compliance depends on narrowly-defined target identification; awareness of uncertainty; protections against algorithmic bias – including meaningful human verification prior to the authorization of lethal force (CCW GGE 2024).

There is evidence in the public domain that existing AI assisted targeting systems don't consistently meet each of these capabilities across operational environments today (ICRC, Autonomous Weapon Systems 44; Sassoli 331). Accordingly, advanced algorithms and volumes of big data processing - on their own, do not guarantee that AI enabled military systems are compliant to the principle of distinction. Instead, compliance needs to be judged on a case by case basis by referring to the operational context in which humans are involved or not in the playback of system elements and whether there is current legally effective oversight and review (Taddeo and Blanchard 2024).

The Principle of Proportionality

According to Article 51(5)(b) of Additional Protocol I, it is prohibited to launch attacks which may affect the civilian population or civilian objects and are expected to cause incidental loss of civilian life, injury to civilians or damage to civilian objects, which would be excessive in relation with the concrete and direct military advantage anticipated. The determination of this proportionality is qualitative in nature (ICRC Commentary to AP I; Schmitt and Thurnher 2013). It needs a commander to weigh the predicted military advantage of an attack against a prospective assessment of collateral harm, a judgment that involves moral reasoning, contextual assessment, and legal interpretation (Schmitt and Thurnher 240).

AI systems can sift through huge amounts of data and spot trends quickly, but they lack the same capacity for moral reasoning that proportionality assessments demand (Roff 2014; ICRC 2021). Anticipated civilian harm can be identified only by prediction given uncertainty about the presence of civilians, their likely behavior, and burst effects from particular munitions in specific environments. These assessments are inherently probabilistic and entail ethical trade-offs no algorithm can effectively navigate without legal sufficiency (Roff 363). And the numbers of civilian casualties in Gaza, alongside the rapid buildup scenarios that characterize a conflict with Iran in 2026, imply that AI-assisted systems are producing results inconsistent with having humans engage in meaningful proportionality assessments when there is no rigorous human oversight.

Getting compliance with the principle of proportionality isn't just about computational efficiency. AI systems used in weapons should be able to predict expected civilian routine, take uncertainty into account, facilitate contextual legal consideration and provide hundreds of minutes for commanders to modify or omit attacks. Current AI technologies operate as decision support tools rather than autonomous legal decision makers, necessitating meaningful human review of all determinations to comport with lawful proportionality ((US DoD Directive 3000.09).

Military Necessity and Superfluous Injury

Military necessity limits the destruction of protected property to that which is actually required for the legitimate military purpose of defeating the enemy armed forces and submitting it to the authority of the belligerent (Henckaerts and Doswald-Beck, Rule 14). Article 35(2) of Additional Protocol I prohibits means or methods of warfare that would be expected to cause superfluous injury or unnecessary suffering.

Systems that operate without human judgment run the risk of hitting targets which are not necessary to achieve a defined military objective, especially when their target selection logic is opaque or their engagement logic has been miscalibrated (Sassoli 2014). Drone swarm technologies, for example, might detect and attack a larger array of targets than a human commander would authorize, creating unnecessary havoc. It follows that the requirement of military necessity is most effectively met through tightly controlled and constantly supervised AI-enabled systems which cannot act in a way to escalate beyond mission parameters authorized by humans.

A weapon system should be paradigm with military necessity when its objectives are limited to lawful military targets, mission parameters can be altered by human operators, and the system has an option to discontinue engagement if operational conditions shift. These measures mitigate the danger of unwarranted devastation and accidental escalation (Henckaerts and Doswald Beck, Rule 14).

The Principle of Humanity and the Martens Clause

Despite the existence of legal channels, states increasingly resort to extrajudicial responses against terrorism that are classified as crimes under International Law including abduction and killing (including drone attacks particularly in the 21st century). The Martens Clause was articulated first time in the Hague Conventions of 1899 which subject it at that time art. Legal scholars and the International Court of Justice have construed this clause to place an independent limit on new kinds of means and methods of warfare not yet covered by particular treaty prohibitions (Docherty 23).

The delegation of the lethal decision to algorithms without meaningful human oversight arguably violates the principle of humanity as a fundamental norm of law (ICRC 2021; Asaro 2012). Asaro maintains that killing by an autonomous system is an arbitrary deprivation of life, because there is no responsible moral agent in the decision loop (Asaro 698). This worry was echoed by the ICRC in its 2021 Position on autonomous weapons, in which it demanded regulations ensuring that the decision to exercise force against a human being always includes some human beings because this requirement is a basic tenet of dignity.

The principle of humanity demands that the use of lethal force must remain within the sphere of human moral and legal accountability. Such systems may also violate this requirement by substituting theory-driven individualized legal reasoning with abstract statistical prediction endowed merely by a lack of meaningful human supervision. Accordingly, meaningful human control is best viewed as a requisite protection of the sanctity of humanity according to International Humanitarian Law (CCW GGE 2024).

Comparative Assessment of AI Compliance with International Humanitarian Law

This analysis suggests that AI enabled military systems presently demonstrate rather variable compliance with the fundamental principles of International Humanitarian Law (IHL) (ICRC 2021; Schmitt and Thurnher 2013). In relation to the principle of distinction, existing technologies face significant hurdles in being able to comply with this IHL obligation to a sufficient level – i.e., there is currently no successful example of operational machine-mediated distinction between combatants and military objectives on the one hand, and civilians and civilian objects on the other hand under rapidly changing conditions.

The principle of proportionality is also still a subject with limited compliance. While AI systems can assimilate vast amounts of operational data at blinding speed, they have not yet developed the contextual, legal, and ethical insights required to determine how anticipated civilian harm should weigh against the significant and related military advantage foreseeably expected from an attack.

The military necessity assessment corresponds to a moderate standard of compliance, especially as it pertains to contexts where AI enabled systems are operated under meaningful human supervision and limited only to those uses which result in accomplishing valid military objectives within narrowly defined operational parameters. Nonetheless, the need for human judgment continues to be essential to guarantee that a use of force is both lawful and necessary.

As for humanity, contemporary artificial intelligence will achieve only partial success because the moral reasoning, contextual understanding and human judgment that prop up protection of civilians from atrocities in time of armed conflict are beyond its means. Continuing to paraphrase, the ethical and legal implications of organizations delegating life and death decisions to autonomous systems have heightened.

The report also found weak compliance with the principle of accountability (Sparrow 2007; ICRC 2021). With many AI systems being black boxes, it is difficult to retrace the decision making processes involved and whose legal fault it represents when alleged violations of International Humanitarian Law occur, and post incident review is not as effective.

In summary, the data of this study indicate that AI powered military technologies can help boost operational efficiency, increase speed and situational awareness. However, the evidence available now suggests that such systems do not yet have legal reliability adequate to render full compliance with the core principles of International Humanitarian Law without significant and substantive human oversight. For the responsible use of

AI in modern warfare, continued legal regulation, technical safeguards and effective accountability mechanisms therefore remain indispensable.

Legal Challenges: The Accountability Gap and Responsibility Deficit

The Accountability Gap

The accountability gap identified by Sparrow in his landmark 2007 analysis is, perhaps, the most serious legal challenge raised by autonomous weapon systems. When an autonomous system does what would, if done by a human soldier, amount to the commission of a war crime, it is unclear who bears criminal or civil responsibility - no one? The operator who activated the system may allege that the system went wrong or behaved oddly. The programmer who created this system might protest that it was never intended to be used in such a situation in the first place. The commanding officer who ordered the mission can argue that the system was sound and this outcome could not have been predicted. The result, according to Sparrow, is a vacuum of responsibility: an accountability gap where, “serious violations of IHL occur in the absence of legally responsible human agents” (Sparrow 66).

Such an accountability gap is not only theoretical. The reported functioning of the “Lavender” AI system in Gaza, by which human operators were purportedly involved for an average of twenty seconds per kill authorization proposed by that system, arguably reduces humans wielding weapons to a rubber-stamp role and fails to meet the meaningful human control standard outlined in IHL (Asaro 692). If this characterization is correct, then it indicates that having a human formal presence in the approval loop does not by itself close whatever accountability gap companies are trying to address with their new policies, if we assume that such human lacks time, data or ability to evaluate what constituting genuine legal judgment.

To operationalize accountability for the purposes of the study, we assess it against four additive (cumulative) legal characteristics: (i) that lethal force is only used following human identification; (ii) traceability of the decision making process; (iii) operational records available for independent legal review; and, iv identifiable actor able to be criminally liable under International Humanitarian Law or international criminal law (Sparrow 2007; Rome Statute Art. 28). The potential for accountability gap is high where one or more of these indicators are absent.

Command Responsibility and Individual Criminal Liability

Under customary international law, a military commander is criminally liable for crimes committed by subordinates, if the commander knew or had reason to know that the subordinates were about to commit or had committed crimes and failed to take necessary and reasonable measures to prevent or punish such conduct (Rome Statute, Art. 28). The straightforwardly analogizing command responsibility doctrine to autonomous systems is problematic in two respects.

One: the knowledge requirement is hard to fulfill where an AI system makes unpredictable targeting decisions motivated by opaque machine learning logic. A commander authorizing the use of an autonomous system may be insufficiently qualified to properly anticipate or process specific targeting decisions made by that system in advance. Second, the causation element of criminal liability requires a human act to cause the forbidden harm. When the harm is proscribed and it results from an autonomous decision-making process, the causal link between any human act and the prohibited outcome may be legally attenuated (Schmitt and Thurnher 253).

Instead, Anderson and Waxman have argued that states should adopt product liability frameworks concerning AI-enabled weapons - requiring manufacturers to demonstrate the capability of their systems at compliance with IHL before they are deployed (Anderson and Waxman 19). While this alternative has its merits, it does not resolve the concern about impunity: where no person is held criminally responsible for a massacre perpetrated by an autonomous system, the deterrent effect of international criminal law is undermined.

The doctrine of command responsibility continues to apply only in cases where there is sufficient knowledge, effective control and the practical ability to prevent or punish unlawful conduct. Legal doctrines, such as some aspects of command responsibility, may be undermined by increased autonomy in AI since commanders cannot

reasonably understand or predict the operational behaviour of complex AI systems. Thus, meaningful human control must continue to be a necessary precondition for meaningfully ensuring command responsibility under general International Humanitarian Law.

Difficulty of Legal Review and Explainability

To make matters worse, many AI systems for military targeting - especially ones grounded in deep neural networks - are functionally opaque. His logic of targeting is simply not traceable to any explicit rules or criteria that human operators, lawyers, or courts could understand. This opacity creates a systemic barrier to the ex-post legal scrutiny necessary for IHL accountability mechanisms. IHL mandates that a commander conducting an attack assure herself of the necessity for each lethal decision based on identifiable military goals, assessments of harm, and proportionality tests. An AI that cannot show its targeting decisions in walks of IHL are otherwise not verifiable as IHL-compliant, pre- or post-deployment (ICRC, “Autonomous Weapons Systems” 48).

The CCW Group of Governmental Experts, in its November 2024 rolling text, noted that the attributes of IHL-compliant autonomous systems include reliability, predictability, traceability and explainability; no system capable of fully accounting for its targeting-related decisions can ensure its own legal compliance (CCW GGE 2024). This is an important international recognition that explainability is not just a technical desideratum, but also a legal obligation.

To meet the minimum features required for legal review for AI enabled targeting systems, they need to have at least five of the following characteristics:

- i. Traceable decision making processes.
- ii. Recorded operational data and audit logs.
- iii. Explainable targeting recommendations
- iv. Independent post operation review capability.
- v. Pre-Deployment Testing Automated Technical Assurance

In the absence of such safeguards, it becomes far more difficult to carry out a substantive legal review under Article 36 weapons review obligations.

Cyber Operations and AI-Enabled Hybrid Warfare

AI is also reshaping warfare in less overt but legally meaningful ways as it integrates with cyberattacks, psychological operations and disinformation campaigns (Tallinn Manual 2.0; Sharkey 2012). Russia’s application of AI-augmented cyberattacks on Ukrainian infrastructure since 2022, and Iran’s documented use of AI-powered electronic warfare systems to disable GPS navigation in the Strait of Hormuz theater throughout the current conflict illustrate the scope of the regulatory challenge. The legal status of AI-enabled cyberattacks under IHL — especially as to whether they count as a species of “attack” such that proportionality and distinction obligations are triggered - is one which remains unresolved, and one in urgent need of scholarly consideration and diplomatic resolution (Sharkey 312).

AI Accountability Assessment Model

In addition to the legal analysis, this paper proposes an AI Accountability Assessment Model which is a structured framework that assesses whether or not AI enabled military operations continue to meet existing accountability mechanisms under International Humanitarian Law (IHL). Instead of presuming that the use of artificial intelligence necessarily establishes legal impunity, the framework highlights key legal and operational variables that can amplify or undermine accountability in specific operational environments.

The first criterion is human authorization then the question to be asked is did a human operator approve or authorize the use of lethal force before an attack was executed (Rome Statute Art. 28). Decisions should always include meaningful human involvement as a safeguard to ensure compliance with International Humanitarian Law and retention of individual criminal responsibility.

The second criterion is traceability which is a measure to allow for the reconstruction of the decision making process by an AI system after an action has taken place (CCW GGE 2024). The high level of traceability allows investigators, military and judicial authorities to ascertain how a specific targeting recommendation or operational decision is produced.

The third of these is explainability - whether human operators or legal reviewers can comprehend the rationale underlying an AI generated recommendation (ICRC 2021). Transparent and comprehensible explanations will be better suited to legal review, and accountability, than opaque or "black box" algorithms.

Fourth, an assessment of the potential for meaningful legal review to occur post-operationally; that is, whether a determination of legality can be subjected to independent investigation or other judicial scrutiny (Additional Protocol I Art. 36). Access to particular operational records, technical documentation and auditing information in deciding compliance with International Humanitarian Law.

The last threshold relates to the concept of responsible actor and investigates whether legal accountability for a military operation assisted by an AI can be ascribed to identifiable agents, such as individual military personnel (stress added), commanders, States or where appropriate developers/producers of systems (Anderson and Waxman 2013; Sparrow 2007). In cases where it is unclear who bears responsibility, the risk of an accountability gap is exceedingly high.

Together, these criteria can form a systematic approach for evaluating the legal implications of AI enabled military operations in accordance with the proposed accountability model. It allows accountability to be assessed with more structure while acknowledging the various factors that will affect legal responsibility namely, AI capabilities, human control and institutional oversight, as well as the existing mechanisms for effective legal review under International Humanitarian Law.

Legal Implications of AI Enabled Warfare

The analysis shows that the primary legal issue posed by AI supported warfare is not so obvious technological autonomy but an absence of legally significant human agency. Existing command responsibility, weapons review and State responsibility doctrines continue to be relevant but their practical function is progressively contingent upon system transparency, explainability, traceability and sufficient human control (Rome Statute Art. 28; Additional Protocol I Art. 36; ICRC 2021). Therefore, these safeguards should be considered a fundamental aspect of the future international legal regulation of AI enabled military systems.

International Regulation Efforts and Their Limitations

The Convention on Certain Conventional Weapons Process

International engagements to regulate autonomous weapon systems have been largely organized under the Convention on Certain Conventional Weapons (CCW), a multilateral framework governing specific categories of inhumane weapons (CCW GGE 2024; Stop Killer Robots 2025). A Group of Governmental Experts (GGE) on LAWS has met annually since 2014, producing an increasing volume of non-binding guidance and more recently a rolling text of potential regulatory elements. The mandate of the GGE was extended until 2026, subject to the CCW's Seventh Review Conference, which will determine whether formal negotiations on a binding instrument should begin (Stop Killer Robots 2025).

That consensus rule has stymied the CCW process, permitting even a single state party to block parties from getting closer to binding norms. Russia, the United States, and a number of other militarily capable states have opposed legal prohibitions or restrictions on autonomous weapons systems being binding (effective) either arguing that existing international humanitarian law (IHL) sufficiently tackles relevant concerns and/or claiming

that binding regulations would impair military effectiveness clarified in this article below (Arms Control Association 2025).

The 2024 UN General Assembly Resolution

This was a monumental day on 2 December 2024, when the UN General Assembly passed Resolution 79/62 on lethal autonomous weapon systems with an overwhelming vote of 166 in favor and only three against (GA Res. 79/62). The resolution endorsed a two-tiered governance framework that called for some autonomous systems to be regulated and others prohibited under international law. The fact that only Russia, North Korea, and Belarus voted against is a reflection of almost universal international consensus on the need for such regulatory action whilst at the same time it showed continued resistance to binding obligations from those major military powers that abstained on the vote (including the US and China) (ASIL Insights 2024).

That unprecedented institutional urgency was evidenced in a joint call for states from UN Secretary-General António Guterres and ICRC President Mirjana Spoljaric-Egger to put new legal prohibitions and restrictions on the books on autonomous weapons by 2026 (CCW GGE 2024). Austria, the European Union and an increasing coalition of Global South countries have also demanded legally binding norms, a push strengthened by regional conferences in Costa Rica, the Philippines, Trinidad and Tobago and Sierra Leone consolidating that support ((UNODA 2025).

The US Department of Defense Framework

These include a 2023 update to the Department of Defense Directive 3000.09, pursuant to which the United States is promulgating an internal regulation requiring senior-level scrutiny before approving for development or deployment fully automated weapon systems and setting that such systems be designed so that commanders can retain appropriate levels of human judgment over the application of kinetic effect. The Directive does not ban autonomous systems per se, but does require the human capability to supervise and other engineering safeguards (US DoD, Directive 6).

"Launched by the United States in February 2023 and now joined by over fifty states, the Political Declaration on Responsible Military Use of Artificial Intelligence and Autonomy sets out a range of politically-binding principles for military application of AI that includes transparency, auditability and alignment with IHL (US Department of State 2023). One criticism is that, without binding verification mechanisms and the notable exclusions of China and Russia from participating, the Declaration has little practical effect (Anderson and Waxman 21).

The Urgency Created by Recent Conflicts

The three conflict theaters that this article analyzes - Ukraine, Gaza and the Iran campaign of 2026 - actually represent a giant red flag that the regulatory window is closing quickly (Brookings Institution 2026; ICRC 2021). Such AI-enabled targeting systems are no longer confined to the realm of experimental warfare; they are on display at scale in the largest armed conflicts involving nuclear-armed and/or militarily advanced states. The 2026 Iran campaign, with its compressed timelines and around 2,000 strikes over less than ninety-six hours, indicates that operational exigencies are already outstripping legal deliberation. Autonomous attacks being regulated are proving to be fundamentally problematic, with casualty figures from Gaza and Iran (including verifiable strikes on civilian schools and residential areas) providing evidence that where AI-assisted targeting is used at scale, civilian harm accrues at rates inconsistent with meaningful compliance with IHL. The urgency for binding international regulation is at a new high.

CONCLUSION AND RECOMMENDATIONS

This article has demonstrated that with rapid integration of AI into contemporary warfare, the field of International Humanitarian Law is faced with serious legal and regulatory challenges. The recent armed conflicts in Ukraine, Gaza and the reports about Wonder Woman military operations using drones or guided missile attaching characters associated with Iran certainly help to depict how AI enabled military technologies are being

integrated into future battlefield scenarios. These events raise several major International Humanitarian Law legal questions regarding protection of civilians, meaningful human control and accountability. In fact the basic tenets of IHL-presumption of distinction, proportionality, military necessity and humanity- were based on the assumption that agents acting on behalf of states exercise discretion themselves when resorting to lethal force and can be legally held accountable for decisions made. Implementing these principles continues to pose a major legal challenge as AI enabled systems take up a larger part of the military decision making process.

While the existing international regulatory landscape sets out a useful legal basis it has begun to struggle to meet the rapid evolving AI enabled military technologies. The process of consensus based decision making in the Convention on Certain Conventional Weapons (CCW) restricts higher degree progress in due course to establish binding international rules. While recent political declarations, national policy initiatives and United Nations General Assembly Resolution 79/62 (2024) are important steps towards better international governance of AGI enabled weapon systems, these measures may be insufficient to foster the multilateral cooperation and further legal development that will be necessary for a comprehensive internationally accepted regulatory framework.

Examples of its regulatory framework are:

The first step is for states to negotiate a legally binding international treaty prohibiting fully autonomous weapon systems that select and engage targets without any meaningful human control. Treaty text should elaborate on what it means for there to be “meaningful human control,” and require a human with sufficient information, time, and authority to make an individualized decision to use lethal force against a particular target in light of an actual proportionality and distinction assessment.

Second, the treaty should include a pre-deployment compliance certification requirement for all AI-enabled weapon systems, similar to the weapons review obligation in Article 36 of Additional Protocol I. These reviews must properly examine system capacity to meet distinction, proportionality and precaution requirements across realistic operational scenarios.

Third, states should also create a multilateral accountability mechanism with jurisdiction to investigate AI-enabled violations of IHL. The technical logic and the training data of AI targeting systems deployed in particular incidents will need to be disclosed under these new accountability streams, which must also be empowered to compel disclosure given the opacity of AI decision-making.

Fourth, the principle of precaution in attack, enshrined in Article 57 of Additional Protocol I, must be interpreted such that states develop and deploy AI systems with demonstrated ability to cancel or suspend an attack where conditions have changed causing a strike to become potentially unlawful. This “safe harbor” requirement would drive IHL compliant constraints to be engineered into AI targeting systems at the design stage.

Fifth, international standards on AI transparency, including mandatory explainability requirements for AI targeting systems, should be pursued through dedicated working groups under the Convention on Certain Conventional Weapons (CCW) framework and, if the CCW process remains blocked, a new multilateral treaty outside of the CCW.

Governance of AI enabled weapon systems certainly remains both viable and needed. Surrounding this discussion are past examples of international treaties regulating new military technologies, suggesting that technological advancement can come with legal innovators. The growing integration of AI into modern warfare makes it increasingly likely that continued international cooperation is required to develop regulatory frameworks that ensure meaningful human control, provide stronger accountability, and uphold fundamental principles of International Humanitarian Law.

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