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HYBRID WARFARE AND THE LIMITS OF INTERNATIONAL HUMANITARIAN LAW: DISTINCTION, PROPORTIONALITY AND MILITARY NECESSITY IN THE SYRIAN AND UKRAINIAN CONFLICTS

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Abstract

This article examines how far International Humanitarian Law (IHL) responds to hybrid warfare, understood as the coordinated combination, by a state or a state-sponsored or tolerated actor, of conventional or irregular military force with cyber, informational or economic instruments. Adopting an interpretivist, qualitative multiple-case design, it applies a Hybrid Warfare Continuum and a Legal Response Matrix to the Syrian civil war and the Ukraine conflict, the latter spanning a deniable phase (2014–2021) and an overt interstate phase (from 2022). It finds that IHL applies with formal clarity to the conventional end of the continuum, but that its practical application is persistently complicated: classification is not self-executing and is recognized only after considerable delay; distinction is strained by the proliferation of armed actors of uneven discipline; proportionality assessed strike by strike fails to capture the cumulative harm of sieges and urban bombardment; and military necessity is exposed to rhetorical inflation. The gap is therefore predominantly implementational rather than doctrinal. Four reform implications follow: clearer classification criteria; investigative capacity designed to trace responsibility across layered sponsorship; coordinated development of IHL alongside sovereignty, cyber and human rights law; and strengthened rules on humanitarian access.

1. INTRODUCTION

International law as it currently stands was never built to regulate warfare that is deliberately designed to slip past its categories. A hybrid actor applies cyber capabilities, conventional military prowess and economic coercion simultaneously, in a manner tailored to stay below the political and legal thresholds, such as an "armed attack" under the UN Charter, that would activate a coordinated defensive or legal response (UN Charter, 1945, arts. 2(4), 51). IHL, in turn, relies on discernible distinction between combatants and civilians and between international and non-international armed conflict (Additional Protocol I, 1977, art. 48; Geneva Conventions I–IV, 1949, common arts. 2–3). For present purposes, hybrid warfare refers to a coordinated campaign, conducted by a state or by an actor operating with sufficient state

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sponsorship or toleration, that combines two or more of the following elements in pursuit of a strategic objective: conventional or irregular military force; cyber operations aimed at government, military or civilian infrastructure; disinformation or other information operations aimed at a target population; and economic coercion aimed at a target state's institutions or population.

This article asks how effectively IHL addresses hybrid warfare, which limitations emerge when its traditional principles (distinction, proportionality and military necessity) are applied to hybrid tactics, and what these limitations imply for reform. The analysis is guided by a proposition, in Yin's (2014) sense of a statement the case evidence can support, qualify or contradict: that hybrid warfare strains IHL's core principles, and the classification of armed conflict, more through the practical difficulty of applying them to actor-complex, deliberately ambiguous conflicts than through any formal gap in IHL's doctrinal coverage. It would be contradicted if the decisive obstacles to protection arose from the absence of any applicable IHL rule.

Two case studies test the proposition. The Syrian conflict is pursued as one of the situations where the extreme actor complexity arising from the proliferation of state, state-sponsored, and other independent non-state armed formations challenges the principle of distinction in particular. The conflict in Ukraine is considered a case that occupies two very different points on the continuum over time, enabling this study to see how the relationship of the same underlying conflict to IHL evolves as it shifts through a hybrid, ambiguous stage to a more unambiguous conventional war, but still bears the hallmark of a hybrid throughout the period. Sections 2 to 4 set out the literature, framework and method; Section 5 examines IHL's core principles; Section 6 presents the cases; Sections 7 and 8 draw comparative observations and reform implications; Section 9 concludes.

2. Literature Review

International Humanitarian Law's applicability to any given conflict depends on a prior classificatory judgment: whether the situation has reached the threshold of an international or non-international armed conflict, as distinct from internal disturbances, riots, or other forms of violence. The ICTY Appeals Chamber held that "an armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State" (Prosecutor v. Tadić, 1995, para. 70). The standard treatments of the law of non-international armed conflict (Dinstein, 2021; Sivakumaran, 2012) show that the intensity and organization criteria are fact-sensitive and admit of no bright-line rule, a recognition that takes on new weight when applied to gradually escalating, multi-actor hybrid conflicts. Where an external state is involved, the tests of "effective control" (Military and Paramilitary Activities in and against Nicaragua, 1986, para. 115) and "overall control" (Prosecutor v. Tadić, 1999, para. 145) were developed for conventional forms of sponsorship and translate awkwardly to the diffuse, deniable sponsorship characteristic of hybrid campaigns; Mačák (2018) argues that the binary consequence of internationalization sits uneasily with graduated, partial foreign involvement.

A second strand concerns distinction. Reisinger and Golts (2014) document the deliberate ambiguity Russia maintained around the status of its personnel in Crimea, frustrating the clear attribution on which IHL's distinction principle and the law of state responsibility alike depend; Reeves and Wallace (2015) show that this ambiguity carried genuine legal consequences for combatant and prisoner-of-war status. Hybrid conflicts also complicate the evidentiary chain required for command responsibility (Prosecutor v. Delalić et al., 1998; Rome Statute, 1998, art. 28).

The case literatures are extensive. Sarkin and Capazorio (2022) attribute the gap between IHL's

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formal applicability and its enforcement in Syria to the proliferation of armed actors and the paralysis of a Security Council in which Russia was both permanent member and supporter of the government; Thomas (2020) frames the Russian intervention as a "strategy of limited action"; and Seven (2025) documents the use of sovereignty claims to restrict humanitarian access. On Ukraine, Heinsch (2015) characterized the pre-2022 Donbas conflict as a "proxy war" whose classification was contested; Volokhov et al. (2026) treat it as a hybrid armed conflict throughout; and Szpak and Kufel (2024) show that proportionality and distinction problems persisted after classification became settled. These studies, however, have been conducted almost without exception within a single conflict. Applying a single framework, one that orders tactics along a common spectrum and assesses the character of the legal gap at each point, to both cases is what comparatively few studies have done; even Casey-Maslen's (2024) integrated treatment takes the body of law, rather than the tactic, as its organizing unit.

3. Analytical Framework

This article adopts a synthesis drawn from the areas of overlap between Hoffman (2007), Galeotti (2016), Cullen and Reichborn-Kjennerud (2017), and Reisinger and Golts (2014), treating four recurring features as hybrid warfare's defining characteristics. Multiplicity of means: two or more distinct instruments of coercion are combined. Deliberate ambiguity: hybrid tactics are calibrated to remain below or outside the thresholds that would trigger a clear legal or institutional response (Galeotti, 2016; Sari, 2019). Actor complexity: a layered structure of state direction, sponsorship, or toleration operates alongside non-state or proxy actors, complicating attribution and responsibility (Mankoff, 2014; Reisinger & Golts, 2014). Target diffusion: hybrid tactics are directed not only at an adversary's military capacity, but at its civilian population, critical infrastructure, economy and institutions (Cullen & Reichborn-Kjennerud, 2017). Because the benefit of hybrid tactics derives specifically from remaining beneath existing legal thresholds, successful hybrid tactics are almost definitionally tactics that existing law struggles to address (Galeotti, 2016; Hoffman, 2007); this strategic logic of ambiguity implies that a reform closing one gap is likely to shift, rather than eliminate, the incentive to seek out ambiguity.

The Hybrid Warfare Continuum arranges hybrid tactics along a single spectrum ordered by the kinetic intensity of the instrument: Zone One, conventional or irregular military force; Zone Two, cyber operations; Zone Three, information operations; and Zone Four, economic coercion. A single campaign may appear in more than one zone simultaneously. Attribution difficulty generally increases from Zone One toward Zone Three (Rid & Buchanan, 2015), in both its technical sense and its legal sense, the latter requiring that a state directed or controlled the conduct, or acknowledged and adopted it (International Law Commission, 2001, arts. 8, 11). The Legal Response Matrix asks, for each zone, whether a body of law applies formally, whether its application is settled, and whether it provides an adequate practical remedy. The Matrix assesses four bodies of law (IHL, sovereignty and cyber law, human rights law and the law governing economic coercion); because this article is concerned with IHL, Table 1 sets out the Continuum together with the provisional ratings for IHL alone. These ratings are derived from the literature reviewed in Section 2, not from the case analysis, so that the framework is tested against the cases in Sections 6 and 7 rather than fitted to them.

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Table 1
The Hybrid Warfare Continuum and Provisional Ratings of International Humanitarian Law

Continuum zone	Characteristic tactics	Attribution difficulty	IHL rating	Basis of the provisional rating
Zone One: Conventional and irregular military action	Marked or unmarked forces; proxy and irregular formations	Lowest: physical traces and identifiable actors	Strong	Distinction, proportionality and military necessity directly engaged; unmarked personnel and blurred combatant status test distinction
Zone Two: Cyber operations	Intrusions against infrastructure; espionage; hack-and-leak	High: technical and legal attribution both difficult	Contested	IHL extended to cyber operations within an armed conflict (Tallinn Manual 2.0); whether a cyber operation alone can trigger IHL is unsettled
Zone Three: Information operations	Disinformation; propaganda; synthetic media	Highest: chains of intermediaries and automated systems	Weak	No physical force of the kind IHL regulates; engaged only where operations occur within an armed conflict
Zone Four: Economic coercion	Sanctions; trade and financial restrictions	Low: measures usually announced publicly	Weak	Engaged only through humanitarian access and relief provisions, where a measure affects an ongoing armed conflict

Note. Zones are ordered by the kinetic intensity of the instrument. Ratings are provisional assessments derived from the literature and reflect three questions: formal applicability, degree of settlement in law and state practice, and practical enforceability given attribution constraints. "Strong" indicates formal applicability, settled doctrine and practical enforceability; "Contested" indicates formal applicability in principle with doctrine that remains unsettled; "Weak" indicates that the body of law is engaged only indirectly or at the margins of the zone. A rating describes the protection the law affords against a tactic, not the lawfulness of the tactic itself. The Matrix rates three further bodies of law, which are not examined in this article. Sources: Chesney and Citron (2019); Mankoff (2014); Reeves and Wallace (2015); Rid and Buchanan (2015); Schmitt (2017).

Two features of Table 1 frame the analysis that follows. First, IHL's applicability declines across the continuum because of the threshold concept of "armed conflict": hybrid tactics are frequently conducted where no armed conflict, in the sense IHL requires, can confidently be said to exist. Second, the Strong rating for Zone One predicts that the gap there will be implementational rather than doctrinal. The case studies test that prediction.

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4. Methodology

The study is qualitative and rests on an interpretivist epistemology and a constructivist ontology: the legal significance of hybrid tactics is not a fact existing independently of the actors who interpret it, but is constructed as states, courts, international organizations and scholars characterize incidents as falling within, or outside, existing legal categories (Creswell & Poth, 2018; Crotty, 1998). Doctrinal analysis is used as the interpretive toolkit for individual legal questions (Hutchinson & Duncan, 2012). The design is an exploratory multiple-case study (Yin, 2014), with cases selected purposively: Syria as the most actor-complex armed conflict of the period, and Ukraine because it spans a deniable and an overt phase within a single conflict. Data are drawn from public secondary sources: treaties, judgments, reports of UN bodies, the ICRC and the OPCW, and scholarship. Each case follows the same protocol (factual account, applicable rules, interpretive difficulties, relation to the framework), and the material was analyzed through qualitative content analysis and reflexive thematic analysis (Braun & Clarke, 2006, 2019). Trustworthiness was addressed through triangulation across source types and a uniform case protocol (Lincoln & Guba, 1985). Because the cases were chosen for their salience, the findings are analytically rather than statistically generalizable (Geddes, 1990).

5. Applicability of IHL in Hybrid Warfare

5.1 The Core Principles Restated

The codification of International Humanitarian Law in the four Geneva Conventions of 1949 and their 1977 Additional Protocols rests on three interlocking principles: distinction, proportionality, and military necessity. Article 48 of Additional Protocol I obliges parties to a conflict to distinguish at all times between combatants and civilians, and between military objectives and civilian objects. The principle of proportionality, codified in Article 51(5)(b), prohibits an attack expected to cause incidental civilian harm excessive in relation to the concrete and direct military advantage anticipated. Military necessity permits a party to take action necessary to achieve a legitimate military objective, but only subject to the restrictions the other two principles impose. These three principles were formulated against a background assumption that armed conflict involves confrontation between organized, uniformed state armies within a relatively clear factual and legal framework: identifiable parties, identifiable territory, and an ascertainable chronology of commencement and end. Hybrid warfare departs from this clear-cut frame through the deliberate combination of conventional and unconventional tactics, the blurring of state and non-state actor roles, and the diffusion of targets beyond purely military objectives.

As Section 3 identified, these principles are most applicable to Zone One of the Hybrid Warfare Continuum, conventional and irregular military action, and are increasingly difficult to apply, although not necessarily impossible to, as one approaches Zones Two, Three and Four. The case studies in this article were chosen primarily from Zone One and its boundaries with Zones Two and Three, since this is where IHL's applicability can be tested most directly against the specific characteristics of hybrid warfare: multiplicity of means, deliberate ambiguity, actor complexity, and target diffusion.

5.2 Distinction and the Problem of Hybrid Actors

The principle of distinction assumes that the status of combatants can be easily identified, conventionally by the donning of a distinctive uniform or an insignia and the open display of arms. This presupposition is complicated by hybrid warfare in two related aspects. On the one hand, hybrid campaigns are often characterized by the use of unmarked forces, mercenary or hired forces, or foreign fighters whose official status is intentionally blurred (Mankoff, 2014; Reisinger & Golts, 2014). Second, hybrid campaigns are often

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fought on terrain where multiple non-state armed groups, of varying degrees of organization and discipline, operate alongside state or state-backed forces. Neither makes the principle inapplicable as a matter of law, but both make it substantially more difficult to observe in practice, and significantly harder to determine, after the event, whether it was observed or not. This difference between formal applicability and practical observability is a motif of the analysis that is to come.

A foreign fighter who enlists in the armed forces of a state party to an international armed conflict is a combatant entitled to prisoner-of-war status on capture (Geneva Convention III, 1949, art. 4(A)(1)); members of other militias and volunteer corps qualify only if their group meets the four conditions in article 4(A)(2). A fighter who joins a group that does not satisfy those conditions, or who meets the cumulative definition of a mercenary (Additional Protocol I, 1977, art. 47(2)), is not entitled to that status, but retains at a minimum the fundamental guarantees of Additional Protocol I, article 75, and of customary law (Henckaerts & Doswald-Beck, 2005). In non-international armed conflicts there is no combatant or prisoner-of-war status at all, and Common Article 3 and, where applicable, Additional Protocol II govern. Hybrid conflicts are likely to increase both the cases in which this distinction must be made and the possibilities of genuine uncertainty, or of a deliberate manipulation of that uncertainty, about the legal status of a particular individual or unit.

5.3 Proportionality and the Problem of Urban, Multi-Actor Conflict

The proportionality principle requires a comparison between anticipated civilian harm and anticipated military advantage, which depends on identifying with reasonable certainty both the military objective and the civilian population or infrastructure placed at risk. Target diffusion makes this comparison directly more difficult (Cullen & Reichborn-Kjennerud, 2017). In heavily populated urban centers, where military targets are intermixed with hospitals, schools, and residential zones, the calculation becomes harder to perform both prospectively and retrospectively (Szpak & Kufel, 2024). Actor complexity adds to the challenge. Evaluating proportionality where a single, disciplined military force engages a readily identifiable opponent is challenging enough; evaluating it on a battlefield populated by numerous armed actors — state forces, sponsored militias, and free-ranging non-state groups, all potentially embedded among the same civilian population — multiplies the sources of uncertainty the assessment must account for. A retrospective assessment requires untangling which actor conducted a particular strike, what military objective that actor was pursuing, and what civilian casualties it could reasonably have foreseen. A further difficulty relates to the cumulative, rather than discrete, nature of certain harm. Where an extended siege or sustained bombardment continues over a long period, harm arises less from any single strike than from the gradual erosion of access to food, healthcare, and other basic needs; an understanding of proportionality based on the evaluation of individual strikes is poorly suited to capture this cumulative dimension.

5.4 Military Necessity and the Risk of Its Misuse

Military necessity is, by design, a permissive rather than a restrictive principle. Because hybrid campaigns are frequently conducted under a claimed justification — counter-terrorism, self-defense, or the protection of a co-ethnic or co-national population — that is inherently difficult to verify independently, military necessity can be invoked expansively to justify operations that would be prohibited in a more clearly demarcated conventional conflict. Where genuine uncertainty exists about who bears responsibility for an action, what purpose it served, or whether an armed conflict exists at all, the space within which such a justification can be asserted without credible external challenge widens accordingly. The

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Donbas phase of the Ukraine conflict illustrates this: Russia officially denied any involvement in the fighting throughout 2014–2021, while the "protection" of the Donbas population it invoked — most prominently in justifying the 2022 invasion — was a jus ad bellum claim to a right to use force, not a claim of military necessity in the jus in bello sense, which permits only measures required to overcome the enemy within the limits IHL otherwise sets (Volokhov et al., 2026). The conflation of the two registers is itself a symptom of the ambiguity described above.

6. Case Studies in IHL and Hybrid Warfare

6.1 The Syrian Civil War

Classification and Hybrid Characteristics

The Syrian war began in 2011 as unrest spilling over from the Arab Spring, developing into armed conflict as the government's crackdown triggered the formation of the Free Syrian Army and, later, the proliferation of non-state armed groups, including the transnational Islamic State (Sarkin & Capazorio, 2022). In July 2012, the International Committee of the Red Cross determined that the situation had crossed the threshold of a non-international armed conflict, a public characterization that confirmed, rather than itself triggered, the application of Common Article 3 and customary law, since classification depends on the facts on the ground and not on any institution's declaration (International Committee of the Red Cross, 2012, 2016). IHL's applicability was thus not publicly recognized until more than a year after the conflict began, reflecting the difficulty of determining, amid a proliferation of armed groups varying widely in size, discipline, and organizational coherence, whether the intensity and organization criteria had been satisfied. The armed conflict threshold is not self-executing, and its satisfaction in a fluid, multi-actor, gradually escalating situation is in practice recognized externally through an assessment that takes considerable time and rests on a factual evaluation the parties frequently contest.

The conflict displays all four features of hybrid warfare. Multiplicity of means is evident in the combination of conventional air and ground power with irregular proxy forces, private military contractors and siege tactics (Sarkin & Capazorio, 2022; Thomas, 2020). Actor complexity is particularly pronounced, the actors including state armed forces, externally financed militias, transnational terrorist organizations, and Kurdish self-defense groups (Sarkin & Capazorio, 2022). Deliberate ambiguity is reflected in the recurring difficulty of verifying competing "protection" and "necessity" justifications. Target diffusion is visible in siege tactics against population centers. The Islamic State, possessing quasi-governmental control over substantial territory while remaining a non-state armed group, posed an unconventional challenge to IHL's classificatory framework: neither a state nor a conventional party to an armed conflict, but an entity combining features of both. Thomas (2020) describes the Russian intervention since 2015 as a "strategy of limited action" built around aerospace power and local proxy forces, which senior Russian military leaders characterized as enabling Russia to pursue its interests abroad without large ground forces — an open acknowledgment of the strategic logic of ambiguity. That intervention was conducted at the Syrian government's request, so that it rested on a claim of intervention by invitation rather than breaching the prohibition of the use of force (Gray, 2018); its significance lies in the conduct of hostilities and the Security Council paralysis discussed below.

Distinction, Proportionality and Humanitarian Access

Cases of enforced disappearance and arbitrary detention have been widely reported, as has, most egregiously, the use of chemical weapons, in clear violation of the absolute treaty and customary prohibition on their use and, where deployed in civilian areas, of the principle of distinction itself (Chemical Weapons Convention, 1993; Henckaerts & Doswald-Beck, 2005, r. 74; Sarkin

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& Capazorio, 2022). The OPCW's Investigation and Identification Team found reasonable grounds to conclude that the Syrian Arab Air Force was responsible for the 2018 chlorine attack at Douma (Organisation for the Prohibition of Chemical Weapons, Investigation and Identification Team, 2023). Non-state armed groups that recruited child soldiers and operated with minimal internal discipline (UN Secretary-General, 2023) further illustrate that the capacity or willingness to observe distinction cannot be presumed, even where IHL's applicability is not in doubt.

The Syrian government also used sovereignty claims to restrict humanitarian access, notwithstanding its obligation under customary IHL to allow and facilitate the rapid and unimpeded passage of impartial humanitarian relief (Henckaerts & Doswald-Beck, 2005, r. 55) and not to withhold consent arbitrarily (Akande & Gillard, 2016). Common Article 3 entitles impartial humanitarian bodies to offer their services but does not oblige a state to accept them, and Syria is not a party to Additional Protocol II; the Security Council demanded unhindered access in Resolution 2139 and authorized cross-border delivery without the government's consent in Resolution 2165 (UN Security Council, 2014a, 2014b). Seven's (2025) survey of humanitarian professionals reports far-reaching restrictions and, in some instances, violence used to assert sovereign authority over the terms of assistance, experienced unevenly across UN agencies, the ICRC and non-governmental organizations. The doctrine of sovereignty, designed to protect a state against external aggression, can thus be turned against that state's own citizens — conduct to which distinction, proportionality, and military necessity do not directly apply, though its impact may be as severe as that of a direct attack. An adequate legal response to hybrid warfare cannot rest on IHL's core principles alone, but must also draw on IHL's specific provisions concerning humanitarian access and relief, and on human rights law more generally. The siege of eastern Aleppo tested proportionality acutely. Compelling a besieged territory's surrender is not prohibited as such, but the siege must comply with the prohibition of starvation of civilians and the obligation to permit the passage of essential supplies (Henckaerts & Doswald-Beck, 2005, rr. 53, 55); the resulting harm accrues gradually, in a manner not easily captured by an analysis confined to individual strikes.

Sovereignty, Intervention and the Continuum

The international response was repeatedly constrained by disagreement over whether external intervention would itself violate Syrian sovereignty, a question the deadlocked Security Council proved unable to resolve (Sarkin & Capazorio, 2022). Even where IHL's formal applicability is well established, whether external actors may intervene to make it operative is determined by sovereignty doctrine and the UN Charter (UN Charter, 1945, arts. 2(4), 51). Since Russia, a permanent member with veto power, was simultaneously providing material assistance to the government, the Council was structurally incapable of authorizing collective action (Sarkin & Capazorio, 2022). This is a distinct expression of actor complexity: an external sponsor, by virtue of its position within the institutional architecture built to enforce IHL, can neutralize that architecture's capacity to respond at all.

On the continuum, the Syrian conflict is concentrated in Zone One, confirming the Matrix's assessment: IHL applies with formal clarity, but its application is complicated by attribution and distinction difficulties. Classification is also more complex than a single non-international armed conflict: on the ICRC's view that non-consensual use of force by one state on another's territory gives rise to an international armed conflict (International Committee of the Red Cross, 2016), foreign strikes by the US-led coalition, Turkey and Israel added parallel international armed conflicts. Identifying individual liability, particularly for the less organized groups, has remained persistently

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difficult (Independent International Commission of Inquiry on the Syrian Arab Republic, 2025). With multiple external states — Russia and Iran foremost — supporting the same side directly and through aligned forces such as Hezbollah, several sponsors may each bear some responsibility (International Law Commission, 2001, art. 47), which is why the Matrix treats attribution difficulty as a continuous rather than a binary variable.

6.2 The Ukraine Conflict

From Crimea to Full-Scale War

The conflict began in 2014 with Russia's annexation of Crimea and its support for separatist forces in Donbas, before escalating into full-scale international armed conflict with the invasion of February 2022 (Mankoff, 2014; Reisinger & Golts, 2014). This trajectory — from a form of hybrid war calibrated to avoid the thresholds of open interstate war to an unambiguous conventional invasion — allows the same conflict to be examined at two points on the continuum. The intervening period was marked by lower-intensity conflict, punctuated by the Minsk agreements, the second of which, the Package of Measures signed on February 12, 2015, was endorsed by Security Council Resolution 2202 (UN Security Council, 2015), and which were violated repeatedly. Sustained for eight years at an intensity low enough to avoid an unambiguous international response, yet high enough to leave the dispute unresolved, this phase is itself an example of deliberate ambiguity.

In Donbas, as Volokhov et al. (2026) note, Russia's stated justification — the protection of the population — was legally unfounded, while its ambiguous relationship with the separatist forces blurred attribution in a manner resembling the Crimea operation (Reisinger & Golts, 2014). Russia's provision of nationality to residents of the separatist republics gave it a rhetorical basis to characterize its later involvement as protecting Russian nationals, deepening the entanglement between the separatist entities and the Russian state without on its own satisfying either the effective control test of *Military and Paramilitary Activities in and against Nicaragua* (1986) or the overall control test of *Prosecutor v. Tadić* (1999) — tests that answer different questions: effective control governs attribution for the purposes of state responsibility (*Application of the Genocide Convention*, 2007, paras. 402–407; International Law Commission, 2001, art. 8), while overall control governs whether foreign involvement internationalizes a conflict (*Prosecutor v. Tadić*, 1999, para. 145). The factual uncertainty has since been substantially resolved: the Grand Chamber of the European Court of Human Rights held that Russia exercised effective control over the separatist-held areas from 11 May 2014 (*Ukraine and the Netherlands v. Russia*, 2023) and later treated the separatist forces as de facto organs of Russia (*Ukraine and the Netherlands v. Russia*, 2025).

Conventional War, Persistent Hybrid Elements

After February 2022, classification as an international armed conflict became significantly less contested (Szpak & Kufel, 2024; Volokhov et al., 2026). Yet this shift did not eliminate the distinction and proportionality problems characteristic of hybrid warfare, but caused them to persist in a new form. The UN Human Rights Monitoring Mission in Ukraine reported violations of distinction, proportionality, and precaution, including unlawful killings of civilians in the Kyiv, Chernihiv, Kharkiv, and Sumy regions, and conflict-related sexual violence, enforced disappearance, and arbitrary detention in Russian-controlled territories (Office of the United Nations High Commissioner for Human Rights, 2022). The law of belligerent occupation obliges an occupying power to respect and ensure respect for human rights and IHL, as the International Court of Justice held in *Armed Activities on the Territory of the Congo* (2005, para. 178). The continuum should therefore not be read to suggest that a conflict's movement into the clearly delimited space of Zone One eliminates all of the distinction and proportionality problems of

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the previous phase; some persist independently of classification, since they stem from the physical and tactical circumstances of the fighting rather than from ambiguity about the parties.

The bombardment of Mariupol with explosive weapons with wide-area effects, which damaged thousands of buildings including hospitals and apartment blocks, creates acute problems in assessing retrospectively whether the military advantage of a particular strike was proportionate, especially where information about target selection is unavailable (Human Rights Watch, 2024; Szpak & Kufel, 2024). Cluster munition attacks caused hundreds of civilian casualties in Kharkiv, Kramatorsk, and Vuhledar in the invasion's early months (Human Rights Watch, 2023). Szpak and Kufel (2024) decline to say categorically whether the destruction in Mariupol, Irpin and Kharkiv, and the killings in Bucha, meet the thresholds of crimes against humanity or genocide; even where the facts of civilian harm are well established (Independent International Commission of Inquiry on Ukraine, 2023), translating them into a specific legal characterization — whether a war crime, a crime against humanity, or genocide, each carrying different evidentiary requirements and different accountability consequences — remains a difficult and time-intensive exercise. This is a further illustration of the gap between the existence of hybrid or hybrid-like harm and the availability of a legally actionable characterization of it.

The conflict has also combined its military dimensions with sustained cyber and information warfare, extending it into Zones Two and Three (Volokhov et al., 2026). The shift from ambiguity to clarity has therefore been unevenly distributed: while the conventional dimension became markedly clearer after 2022, the cyber and informational dimensions continued to present attribution and applicability challenges (Rid & Buchanan, 2015; Schmitt, 2017). A single conflict may thus occupy a comparatively settled position with respect to IHL, as applied to its kinetic dimension, while occupying an unsettled position with respect to sovereignty and cyber law. The Ukraine conflict shifted from the deniable end of Zone One to a more unambiguous, though still hybrid-infused, position after 2022, without thereby leaving the hybrid domain entirely.

7. Comparative Observations

Table 2 maps the two cases onto the Continuum and the IHL ratings set out in Table 1.

Table 2

Mapping the Syrian and Ukrainian Conflicts onto the Hybrid Warfare Continuum

Dimension	Syrian civil war	Ukraine conflict (2014–2021)	Ukraine conflict (post-2022)
Primary continuum zone	Zone One (informational and sanctions dimensions not examined)	Zone One (deniable forces), with Zone Two/Three activity	Zone One (with persistent Zone Two/Three features)
Conflict classification	NIAC (ICRC, 2012), with parallel IACs arising from non-consensual foreign strikes	IAC (Crimea, from Feb. 2014; Russian control of separatist areas from May 2014 per ECtHR) and at least NIAC in Donbas; publicly disputed at the time	IAC; broadly unambiguous
Actor complexity	Very high (state, sponsored militias, transnational groups)	High (ambiguous separatist–Russian relationship)	Reduced (clearer state-to-state structure)

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Dimension	Syrian civil war	Ukraine conflict (2014–2021)	Ukraine conflict (post-2022)
IHL applicability	Strong in principle; contested in practice	Applicable; applicability disputed at the time	Strong
Dominant difficulty	Distinction (multi-actor); humanitarian access	Attribution; delayed recognition of classification	Proportionality (urban warfare)

Note. NIAC = non-international armed conflict; IAC = international armed conflict; ECtHR = European Court of Human Rights. Sources: Sections 6.1 and 6.2.

Three comparative observations follow. First, both conflicts show that formal classification, and the resulting formal applicability of IHL, fails to address the practical challenge of applying IHL's core principles once actor complexity and target diffusion come into play. In Syria, classification was resolved relatively early relative to the conflict's duration, yet distinction remained under strain throughout. In Ukraine before 2022, because Russia denied involvement and its control over the separatists was not authoritatively established at the time, classification was publicly disputed for years — even though Crimea amounted to an international armed conflict and occupation from February 2014 (International Criminal Court, Office of the Prosecutor, 2016), the fighting in Donbas reached at least the non-international threshold, and later judicial findings established Russian control from May 2014 (*Ukraine and the Netherlands v. Russia*, 2023).

Second, external involvement calibrated to minimize the costs of overt engagement — Russia's support for Syrian government forces before its overt 2015 intervention, and for Donbas separatists before 2022 — exploits precisely the attribution and classification challenges most acute at the Zone One/Zone Two boundary. In both instances the external state's role became unambiguous only once it committed to overt, large-scale force. (In Syria, the overt intervention of 2015 took place at the Syrian government's invitation, so that its legal significance lay in the conduct of hostilities rather than in any breach of the prohibition of force against Syria.) This confirms the strategic logic of ambiguity: legal uncertainty is greatest when the external state's strategic latitude is greatest, and legal clarity — whether regarding Russia's role in Syria after 2015, or the near-universal characterization of the 2022 invasion as an international armed conflict — is achieved only after decisive action beyond the ambiguous domain.

Third, IHL, though clearly applicable to the conventional dimension of a hybrid conflict, does not by itself address the cyber, informational, and economic dimensions hybrid campaigns combine with it, as the persistent cyber and information warfare in Ukraine shows (Volokhov et al., 2026). An adequate legal response therefore requires the simultaneous application of multiple bodies of law.

The comparison supports the guiding proposition. In neither case did the decisive obstacle arise from the absence of an applicable rule: the rules on distinction, proportionality, humanitarian relief, chemical weapons and occupation all applied. The obstacles lay in the delayed recognition of classification, attribution across layered sponsorship, the cumulative character of harm, and institutional paralysis. One qualification is required: the rules on consent to humanitarian relief are framed with sufficient openness (consent may be withheld, provided not arbitrarily) to leave room for exploitation, so that the gap there has a doctrinal as well as an implementational dimension (Akande & Gillard, 2016).

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8. Implications for Legal Reform

The case studies indicate four areas where IHL can be strengthened. First, the lag between the emergence of hybrid hostilities and the recognition that an armed conflict exists — roughly sixteen months in Syria, and recurring in Donbas — indicates that clearer and more rapidly implementable rules for recognizing the classification of hybrid or ambiguous conflicts are needed, so that the protections IHL already provides from the moment a conflict exists in fact are acted upon promptly (International Committee of the Red Cross, 2016). Reform involves a trade-off with the risk that lowering the threshold would blur the distinction between armed conflict and civil unrest; the appropriate response is not to lower the threshold itself, but to establish clearer criteria and procedures for recognizing when it has been crossed.

Second, the difficulty of establishing individual and command responsibility within layered structures suggests the need for investigative and accountability mechanisms designed to trace responsibility across sponsorship, toleration, and proxy agency. The question is not whether entirely new institutions must be created, but whether existing ones — the UN Human Rights Monitoring Mission in Ukraine and the commissions of inquiry on Syria — need to be resourced and mandated for this purpose. Such bodies should separate technical fact-finding from the attribution of responsibility, as the OPCW did by assigning attribution to a separately mandated team after its Fact-Finding Mission had established what occurred at Douma (Organisation for the Prohibition of Chemical Weapons, Fact-Finding Mission, 2019; Organisation for the Prohibition of Chemical Weapons, Investigation and Identification Team, 2023). Domestic prosecutions complement these mechanisms (Marchuk, 2022).

Third, the persistence of cyber and information warfare in Ukraine shows that IHL reform alone cannot address the gaps hybrid warfare reveals: IHL, sovereignty and cyber law, and human rights law should be developed together, in a coordinated rather than isolated manner. The Ukrainian conflict's explicit demonstration of IHL's limits within a hybrid armed conflict, as Volokhov et al. (2026) characterize it, supports this conclusion: no single body of international law, however reformed, is likely to provide a comprehensive response to a genuinely hybrid armed conflict on its own. Fourth, the instrumentalization of sovereignty against humanitarian access calls for strengthening the IHL provisions on relief by specifying the grounds on which consent may be withheld and providing for independent review of refusals, building on the Oxford Guidance (Akande & Gillard, 2016). Because hybrid actors adapt to whatever gap remains, these implications strengthen the machinery surrounding existing categories rather than creating new thresholds that would themselves become targets for calibration.

9. Conclusion

This article confirms that IHL applies most clearly to the conventional, Zone One end of the Hybrid Warfare Continuum, even though its application there remains persistently complicated by actor complexity, deliberate ambiguity, multiplicity of means, and target diffusion. Three findings stand out. First, IHL's classification threshold is not self-executing and often takes considerable time to resolve in a hybrid context — a structural feature that parties with an interest in ambiguity can exploit. Second, actor complexity is not a threshold question resolved once a conflict is classified, but a persistent feature that continues to complicate the determination of who is responsible for harm, and whether it was proportionate, throughout a conflict. Third, a single hybrid campaign can occupy different positions on the continuum simultaneously across its tactical dimensions. These findings support the proposition that the strain hybrid warfare places on IHL lies predominantly in the practical application of settled rules rather than in any formal gap in doctrinal coverage, with the partial

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exception of consent to humanitarian relief. The analysis is limited by its purposive, two-case design and reliance on secondary sources. Future research might test the framework against conflicts in other regions, including South Asia, and against the IHL implications of autonomous systems.

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