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THE EUROPEAN LAND FORCE  
COMMANDERS ORGANISATION

**MARCH 2026**

# The Legal Challenges of IEDs: An International Humanitarian Law Perspective

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RESEARCH REPORT



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RESEARCH REPORT

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## 1. Introduction

Over the last two decades, improvised explosive devices (IEDs) have entered the vocabulary of every individual involved in armed conflicts. Yet, whilst IEDs are commonplace on the battlefield, legal doctrine has not paid much attention to the issue.

IEDs have become the weapon of choice, and often the weapon of necessity, for non-state armed groups. Since 2015, multiple UN resolutions have repeatedly reiterated the grave concern over the havoc caused by IEDs.<sup>1</sup> Indeed, from a humanitarian perspective, the use of IEDs during armed conflicts has devastating consequences for military personnel, civilians, and humanitarian operations. Moreover, as most conflicts around the globe are still to this day non-international and involve at least one non-state armed group, the threat of IEDs remains.<sup>2</sup>

This paper will analyse the relation between IEDs and international humanitarian law (IHL), arguing that IEDs do not fit into the classical rules regulating weapons under IHL framework because of their improvised nature. Rather, analysis of IEDs often revolves around other weapons categories and determinations of targeting law. IEDs as a weapon system have, under IHL, not gathered much attention. Considering the significant humanitarian consequences IEDs have created, this paper will examine whether IEDs should receive more attention under IHL.

In the following sections, this paper will first analyse what IEDs are and their effects in the war in Afghanistan.<sup>3</sup> This paper will then analyse the current regulatory landscape concerning IEDs within IHL. Finally, this paper will elaborate on the question of whether IHL should regulate IEDs more specifically.

## 2. What are IEDs?

Although the concept of an IED is widely recognised, precisely defining the weapon system remains difficult. NATO, for example, defines an IED as “a device placed or fabricated in an improvised manner incorporating destructive, lethal, noxious, pyrotechnic, or incendiary chemicals and designed to destroy, incapacitate, harass, or distract.”<sup>4</sup> This definition does not fully define an IED; rather, it describes the device. It is, however, clear that the essential element, distinguishing IEDs from other weapons, is their improvised nature. This improvised nature is difficult to define but can be assumed to be opposed to conventional or standardised procurement and production.<sup>5</sup>

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<sup>1</sup> See for example UNGA, Res 70/46 (7 December 2015); UNGA, Res 72/36 (11 December 2017); UNGA, Res 79/53 (2 December 2024).

<sup>2</sup> See, for example, the RULAC Warwatch, which for the period 2024–2026 identifies 75 armed conflicts, 61 of which are non-international. Geneva Academy, ‘Warwatch’ <<https://warwatch.ch/explore/>>, accessed February 2026.

<sup>3</sup> The focus will be on the use of IEDs during Afghanistan 2001-2021, as plenty of materials and information are available on the subject.

<sup>4</sup> NATO Standardization Office, ‘AAP-06: NATO Glossary of Terms and Definitions’ (2019).

<sup>5</sup> See for example: Theò Bajon, ‘Proliferation and Use of Improvised Explosive Devices in West Africa: A Sub-Regional Approach to the Intensity of Proliferation and the Nature of Use’ (2023) 5(3) *Journal of Intelligence, Conflict, and Warfare* 62; Wen Zhou, Andrea Raab, ‘IEDs and the Mine Ban Convention: a minefield of definitions?’ (2019) *Humanitarian Law and Policy*.

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A more detailed approach to defining IEDs involves identifying their common core components. According to the UN Mine Action Service (UNMAS) IED Lexicon, IEDs typically consist of five common core components.<sup>6</sup> The five components are the switch, initiator, main charge, power source, and container. The switch is the component that the operator or the victim triggers to activate the device. The initiator starts the detonation or deflagration. The main charge is the device's primary explosive. Finally, the device is held within the container and draws the energy needed for the other components to work from the power source. In addition to these five core components, IEDs can include non-essential enhancements intended to create or amplify specific effects.<sup>7</sup> Ball bearings, for example, can be added to create additional fragmentation.<sup>8</sup>

The improvised nature of IEDs leads to wide diversity and high flexibility, as each core component can be custom-made and evolve in response to operation-specific circumstances.<sup>9</sup> Moreover, the designs can be easily tweaked to specifically exploit the adversary's weaknesses. This flexibility makes countering IEDs a difficult and constant task for militaries, often costing significant amounts of resources.<sup>10</sup> The variability in the design, effect, and usage of IEDs makes the application of international law difficult.

### 3. The use of IED in Afghanistan, 2001-2021

The improvised nature of IEDs enables high versatility and multiple potential uses. While this section presents only a brief overview focusing on the war in Afghanistan, it is important to acknowledge the high diversity due to the flexibility and adaptability of IEDs. IEDs can be used as improvised landmines, roadside bombs, or in multiple different suicide configurations. Fundamentally, their direct and tangible purpose remains consistent: kill, injure, wound, damage, and or destroy vehicles, infrastructure, and combatants.<sup>11</sup> They often offer standoff capability, allowing use from a distance without exposing the user to the adversary.<sup>12</sup> In some cases, IEDs can initiate a larger attack, fix the target in place, or deny certain areas in ways resembling more traditional mine warfare.<sup>13</sup>

One of the less tangible effects of IEDs is the restriction of movement for adversaries.<sup>14</sup> In Afghanistan, IEDs structurally shaped the operational environment. This effect extends beyond the individual device, as the constant and unpredictable threat posed by IEDs disrupts and restricts the freedom of movement of the adversary.<sup>15</sup> IEDs created a hostile environment where every turn, crossroad, or bridge could be lethal, as a device could detonate at any time. This constant and unpredictable threat disrupted and slowed operational momentum, and because of the standoff capability provided by IEDs, no advantage could be pursued from an incident.<sup>16</sup> One United States explosive ordnance disposal (EOD) officer described the effects as follows:

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<sup>6</sup> UNMAS, 'An IED Lexicon for People Working in Environments Contaminated with Improvised Explosive Devices' (undated), 17; United States Joint Chiefs of Staff, 'JP 3-15.1: Counter-Improvised Explosive Device Operations' (2012), I-1 to I-4.

<sup>7</sup> Marc Tranchemontagne, 'The Enduring IED Problem: Why We Need Doctrine' (2016) Joint Force Quarterly; UNMAS, 'An IED Lexicon for People Working in Environments Contaminated with Improvised Explosive Devices' (undated), 45-48.

<sup>8</sup> Ibid.

<sup>9</sup> UNMAS, 'An IED Lexicon for People Working in Environments Contaminated with Improvised Explosive Devices' (undated), 6-15.

<sup>10</sup> 'Improvised Explosive Threat Reaches Global Scale' (2006) National Defense Magazine, 1.

<sup>11</sup> United States Joint Chiefs of Staff, 'JP 3-15.1: Counter-Improvised Explosive Device Operations' (2012), I.1.

<sup>12</sup> John M Moulton, 'Improvised Explosive Device (IED) Strategies' (2009) Military Review, 27.

<sup>13</sup> US Department of the Army, 'Joint Improvised Explosive Device Defeat Fund: FY2012 Base Budget and Overseas Contingency Operations Estimate' (February 2011), 4; Jeffrey Dressler, Operation Mosharak (Institute for the Study of War, 2010), 4.

<sup>14</sup> NATO Parliamentary Assembly, 'Countering the Afghan Insurgency: Low-Tech Threats, High-Tech Solutions' (2011), 2.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

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“No other weapon shaped the battlefields in Iraq and Afghanistan like the IED. It required that troops charged with enhancing population security confine themselves to massive, armored vehicles and travel at high rates of speed or plow through farmers’ fields to avoid roads entirely. It slowed dismounted troops forced to sweep with metal detectors and divert around empty intersections. [...] It was the only insurgent weapon that could cause mass civilian casualties, undermining local governance, the credibility of counter-insurgent efforts, and ensuring a steady stream of atrocities — of the horrors of intervention — could be broadcast globally.”<sup>17</sup>

During the war in Afghanistan, IEDs were a tool of terror and destabilisation. Every IED explosion sent a reminder that the stabilisation operations were failing.<sup>18</sup> It delegitimised local governance and the transition to peace, creating a perspective of insecurity and incompetence among the civilian population.<sup>19</sup> As a result, IEDs caused a significant number of civilian casualties. For example, in Afghanistan, they were the leading cause, excluding 2014 and 2016, of conflict-related civilian deaths, with Action on Armed Violence (AOAV) estimating that from 2010 to 2020, 77 per cent of civilian casualties were caused by IEDs.<sup>20</sup> Moreover, 42 per cent of all IED incidents took place in populated areas.<sup>21</sup>

IEDs have a broad, structural impact on civilian lives. In addition to the lasting physical injuries and psychological harm they create, IEDs generate significant reverberating effects on the functioning of societies.<sup>22</sup> IEDs are imprecise weapons that often have large blasts, damaging vital infrastructure and impacting the long-term lives of civilians, in addition to their use as a weapon of terror.<sup>23</sup>

IEDs also contribute significantly to what is called the ‘shrinking humanitarian space’.<sup>24</sup> In Afghanistan, humanitarian workers were targeted directly or by coincidence.<sup>25</sup> Both the humanitarian workers and the aid they provided are targeted as they were associated with stabilisation efforts and thus the broader counter-insurgency operation.<sup>26</sup> Additionally, the persistent threat posed by IEDs creates a dilemma for humanitarian organisations. By protecting their staff and operations, they risk losing the ability to fulfil their missions. Hunkering-down strategies, for example, often entail high costs.<sup>27</sup> Fortified offices and armoured vehicles can make humanitarian organisations appear militaristic, challenging their neutrality and impartiality, and creating a perception of bias that shrinks engagement with the local populations and communities, ultimately damaging the organisation’s reputation.<sup>28</sup> The resulting financial burden can moreover become prohibitively expensive.<sup>29</sup>

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<sup>17</sup> Jason Shell, ‘How the IED Won: Dispelling the Myth of Tactical Success and Innovation’ (2017) war on the rocks.

<sup>18</sup> Marc Tranchemontagne, ‘The Enduring IED Problem: Why We Need Doctrine’ (2016) Joint Force Quarterly.

<sup>19</sup> United States Joint Chiefs of Staff, ‘JP 3-15.1: Counter-Improvised Explosive Device Operations’ (2012), 1; Action on Armed Violence, ‘The Impact of IEDs on Aid Agencies and Humanitarian Operations’ (2016); NATO Parliamentary Assembly, ‘Countering the Afghan Insurgency: Low-Tech Threats, High-Tech Solutions’ (2011), 3; US House Armed Services Subcommittee on Oversight & Investigations, ‘The Joint Improvised Explosive Device Defeat Organization: DOD’s Fight Against IEDs Today and Tomorrow’ (November 2008), 14.

<sup>20</sup> AOAV, ‘Improvised Explosive Devices: Past, Present and Future’ (2020), 10.

<sup>21</sup> AOAV, ‘Improvised Explosive Devices: Past, Present and Future’ (2020), 11; *ibid.*, 7.

<sup>22</sup> Action on Armed Violence, ‘Anatomy of a Suicide Bombing: Moon Market, Lahore, Pakistan’ (2014); Action on Armed Violence, ‘The Impact of IEDs on Aid Agencies and Humanitarian Operations’ (2016).

<sup>23</sup> Hannah Bryce and Henry Dodd, ‘The Impact of IEDs on the Humanitarian Space in Afghanistan’ (2015) Chatham House, 5.

<sup>24</sup> Action on Armed Violence, ‘The Impact of IEDs on Aid Agencies and Humanitarian Operations’ (2016).

<sup>25</sup> Action on Armed Violence, ‘The Impact of IEDs on Aid Agencies and Humanitarian Operations’ (2016); Hannah Bryce and Henry Dodd, ‘The Impact of IEDs on the Humanitarian Space in Afghanistan’ Chatham House (2015), 5.

<sup>26</sup> Action on Armed Violence, ‘The Impact of IEDs on Aid Agencies and Humanitarian Operations’ (2016).

<sup>27</sup> *Ibid.*; Bryce and Henry Dodd, ‘The Impact of IEDs on the Humanitarian Space in Afghanistan’ Chatham House (2015), 13-14

<sup>28</sup> Bryce and Henry Dodd, ‘The Impact of IEDs on the Humanitarian Space in Afghanistan’ Chatham House (2015), 2 and 13; Action on Armed Violence, ‘The Impact of IEDs on Aid Agencies and Humanitarian Operations’ (2016); UNIDIR, ‘Addressing Improvised Explosive Devices Options and Opportunities to Better Utilize UN Processes and Actors’ (2015), 8.

<sup>29</sup> *Ibid.*

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## 4. IEDs under International Humanitarian Law

When analysing the relation between IHL and weapons, a distinction must be made between the legal status of how a weapon is used and the legal status of the weapon itself.<sup>30</sup> Every weapon can be used in a variety of ways, including ways that violate IHL. A rifle can, for example, be used to slaughter a village. It is common sense that how a weapon is used cannot render the legality of the weapon itself illegitimate.

A distinction thus must be made between the legality of the weapon and the legality of how a weapon is used. Similarly, under IHL, two sets of rules should be distinguished. First, the rules regarding targeting regulate how legal weapons should be used in a particular instance. Second, the rules on the means of warfare or, more commonly, weapons law regulate the inherent legality of weapons irrespective of their particular use.

In the following sections, the legality of IEDs will be analysed from the perspective of weapons law. When assessing the legality of the weapon itself, Article 35 of Additional Protocol One sets out the basic rules governing all means and methods of warfare.<sup>31</sup> In any armed conflict, the right of the parties to choose methods or means of warfare is limited. IEDs used in the context of an armed conflict will be regulated in a twofold manner. Firstly, general principles apply to all means and methods of warfare. Secondly, weapons-specific treaties will further prohibit and restrict certain means and methods of warfare.

### 4.1 *The general principles regulating weapons under IHL*

A first general principle is the principle of unnecessary suffering and superfluous injury, which requires that the military advantage of a weapon be balanced against the harm it creates.<sup>32</sup> The principle is thus violated when no military necessity can be expected or when the suffering is clearly excessive in relation to the military advantage.<sup>33</sup> This principle is, in addition, often analysed by comparing the weapon with other comparable weapon systems.

While this first principle primarily protects combatants, a second principle, the principle of discrimination, is meant to protect civilians from the effects of weapons. Since IHL requires parties during the conduct of hostilities to discriminate between lawful and unlawful targets and apply proportionality, weapons must also inherently comply with these principles.<sup>34</sup>

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<sup>30</sup> Weapons or means of warfare are generally defined as meaning "weapons in the widest sense, as well as the way in which they are used."

Boothby further defines it as: "device, system, munition, implement, substance, object, or piece of equipment that is used, that it is intended to use, or that has been designed for use to apply the offensive capability, usually causing injury or damage to an adverse party to an armed conflict." See: Yves Sandoz, Christophe Swinarski and Bruno Zimmermann (eds), *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (ICRC/Martinus Nijhoff 1987), 1402; Boothby WH, *Weapons and the Law of Armed Conflict* (2nd edn, OUP 2016), 4.

<sup>31</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) 1977, 1125 UNTS 3.

<sup>32</sup> See for example: Boothby WH, *Weapons and the Law of Armed Conflict* (2nd edn, OUP 2016), 53; Yoram Dinstein, *The Conduct of Hostilities under the Law of International Armed Conflict* (3rd edn, CUP 2016), 72.

<sup>33</sup> See for example: Dieter Fleck (ed), *The Handbook of International Humanitarian Law* (4th edn, OUP 2021), 86; Michael Bothe, Karl Josef Partsch and Waldemar A Solf, *New Rules for Victims of Armed Conflicts: Commentary on the Two 1977 Protocols Additional to the Geneva Conventions of 1949* (Brill Nijhoff 2013), 225; Emily Crawford and Alison Pert, *International Humanitarian Law* (3rd edn, CUP 2024), 232-233.

<sup>34</sup> Dieter Fleck (ed), *The Handbook of International Humanitarian Law* (4th edn, OUP 2021), 87; Crawford E and Pert A, *International Humanitarian Law* (3rd edn, CUP 2024), 233; US Department of Defense, *Department of Defense Law of War Manual* (June 2015, updated July 2023), 373; UK Ministry of Defence, *The Manual of the Law of Armed Conflict* (JSP 383) (Joint Doctrine and Concepts Centre), 104; see also Art. 51(4) (b) and (c) of Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.

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These two first principles, found in treaty law, are customary in nature and are known as cardinal principles under IHL.<sup>35</sup>

Finally, while the previous principles focus on humans, a third principle protects nature and requires that weapons should not cause widespread, long-term, and severe damage to the natural environment. This principle is also customary in nature.<sup>36</sup>

The difficulty in applying these principles to IEDs relates to the flexible and improvised nature of the weapon system. These substantive rules must be applied against certain inherent attributes of the weapon in question. This is what distinguishes the law on the means of warfare from the law of targeting. However, what is the precise standard to determine the inherent attributes of a weapon, and how do we apply this to IEDs, considering their high variability and improvised nature?

Boothby argues that the standard is the “generic purpose or purposes for which the weapon has been designed or adapted, or the purpose or purposes for which the weapon will generally be used.”<sup>37</sup> He further specifies that ‘generic’ refers to the use of a weapon in more than one particular occasion, and ‘generally’ describes the normal applications, as opposed to the unusual application or misapplication, within the scope of purposes for which the weapon system was procured or adapted.<sup>38</sup>

This design-based approach is counter to an effects-linked approach, which focuses on the consistent or forceable effects of a weapon. Boothby and others argue that this effects-linked approach would prohibit weapons that exhibit particular effects in specific circumstances.<sup>39</sup> This rule would be too broad, as it focuses on the consequences that will inevitably follow from the intended use of the weapon.<sup>40</sup>

From a design-based approach, weapons that, for example, have extremely excessive or indiscriminate effects in most of all possible circumstances, would be legitimate. This would be the case as long as the designed purpose or intended use would occur in a small amount of all possible circumstances and reflects a discriminate and necessary use. According to the design-based approach, the law thus already narrows the potential effects that must be considered. The design-based approach considers the expected effects arising from the designed or intended purpose of the weapon.

However, when applying the design-based approach to IEDs, how should the high versatility and improvised nature be reconciled with the design purpose of the weapon? Will this application inevitably require a case-by-case analysis under the law of targeting, or should the design purpose element be considered from a broader perspective?

<sup>35</sup> ICJ, *Legality of the Threat or Use of Nuclear Weapons* (Advisory Opinion) [1996] ICJ Rep 226; Kathleen Lawand, ‘a guide to the legal review of new weapons, means and methods of warfare measures to implement article 36 of additional protocol 1 of 1977’ (ICRC, 2006), 9; Yves Sandoz, Christophe Swinarski and Bruno Zimmermann (eds), *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (ICRC/Martinus Nijhoff 1987), 1402.

<sup>36</sup> Henckaerts J-M and Doswald-Beck L (eds), *Customary International Humanitarian Law*, vol I: Rules (CUP 2005), rule 45.

<sup>37</sup> Boothby WH, *Weapons and the Law of Armed Conflict* (2nd edn, OUP 2016), 53; see also the language of the US Department of Defense, *Department of Defense Law of War Manual* (June 2015, updated July 2023), 372 and 374-376 or French Ministry for the Armed Forces, *Manual of the Law of Military Operations* (English translation, Legal Affairs Directorate 2022), 142.

<sup>38</sup> *Ibid.*, 53-54.

<sup>39</sup> *Ibid.*, 49.

<sup>40</sup> *Ibid.*; Yoram Dinstein, *The Conduct of Hostilities under the Law of International Armed Conflict* (3rd edn, CUP 2016), 72.

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An analysis using the effects-based approach implies that IEDs would most likely violate at least one of the fundamental principle of IHL. IEDs have a consistent pattern of civilian harm due to the nature of the weapon. The foreseeable effects thus clearly violate the principle of discrimination.

#### *4.2 Weapons-specific treaty rules*

The second method of regulating means of warfare is weapons-specific treaty prohibitions. These rules, stemming from treaties applicable to certain weapons, are specifically defined by the treaty terms and language.

Regarding IEDs, the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (hereafter the Ottawa Convention), together with the original and amended second protocol of the Convention on Certain Conventional Weapons (CCW), form the main applicable legal framework.<sup>41</sup>

Once again, the issue regarding IEDs is their improvised and variable nature. For these treaties to apply, the improvised device must fall within the definition set out in the treaty text. It is settled that, under both the Ottawa Convention and CCW, the improvised nature does not matter so long as the device meets the definitions.<sup>42</sup> However, while the improvised nature does not impact the application of the conventions, each device must fall under the precise definitions of each convention. This results in a complex and fragmented legal framework.

For example, in the original versions of CCW, the substantive rules apply if the device falls under the definition provided in the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices. Under the amended version, the definitions remain mostly the same, but a different set of specific rules applies to each category. In addition, the amended version adds a category for anti-personnel mines. The Ottawa Convention has a similar definition of an anti-personnel mine but omits the adjective 'primarily' and thus theoretically has a broader scope. Substantively, the Ottawa Convention demands for the total elimination of anti-personnel mines.

Applying weapons-specific treaties to IEDs results in a complex set of different treaties and rules, only applicable if the specific IED meets the terms of the definitions found in those treaties. IEDs are not considered a separate category but often fall under other weapon categories. In addition, even if all conventions are applicable, not all IEDs are covered by the framework.<sup>43</sup> Moreover, conventions only apply if the relevant state is party to the treaty.

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<sup>41</sup> Both treaties are applicable in both international and non-international armed conflicts with the exception of the original second protocol to the CCW, if the state in question did not ratify the amended art.1. see Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (Amended Protocol II) (adopted 3 May 1996, entered into force 3 December 1998) 2048 UNTS 93; Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Protocol II) (adopted 10 October 1980, entered into force 2 December 1983) 1342 UNTS 137; Ottawa Convention on the Prohibition of Anti-Personnel Mines (adopted 3 December 1997, entered into force 1 March 1999) 2056 UNTS 211.

<sup>42</sup> Wen Zhou and Andrea Raab, 'IEDs and the Mine Ban Convention: a minefield of definitions?' (2019) Humanitarian Law and Policy; ICRC, 'Working Paper Submitted by the International Committee of the Red Cross

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<sup>43</sup> See for example: Wen Zhou and Andrea Raab, 'IEDs and the Mine Ban Convention: a minefield of definitions?' (2019) Humanitarian Law and Policy

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## 5. Should IHL focus more on IEDs themselves?

As described above, IEDs are difficult to analyse against the backdrop of the law of weaponry. The use of IEDs will often almost certainly violate the law of targeting, in particular, the rules of distinction, proportionality, precautions in attack, and the prohibition of acts or threats of terror.

However, the analysis under targeting is a case-by-case assessment of an attack or specific act. For example, regarding the prohibition to terrorise civilian populations, the primary purpose of an individual attack must be the intention to spread terror.<sup>44</sup> It does not focus on the systemic civilian harm generated by the wide-scale use of the weapon system, as a result of the systemic use of IEDs.

The law thus obscures the systemic civilian harm generated by the weapon system as such. When applying the IHL framework to IEDs, the focus mostly lies in other weapons categories and the law of targeting. However, should the focus not shift towards the device itself? Even so, it can be questioned whether, if the law of targeting and the weapon-specific treaties were respected by the users, the systemic patterns would materialise in the first place. Moreover, as the weapon is one of necessity used by non-state armed groups and terrorists, would regulating IED even make sense in the first place?

Taking note of the previous nuances, IEDs themselves are still problematic. From numerous UN reports and resolutions from the UN General Assembly and other UN bodies, there is a clear focus on IEDs themselves.<sup>45</sup> Moreover, while the issue of IEDs is essentially an issue regarding the way they are used, a clear analogy exists with anti-personnel mines and cluster munitions. While these weapons can be used in accordance with IHL, in practice, their use results in significant humanitarian consequences that warrant regulation.

In addition, the distinction between the legality of the use of a weapon and the legality of a weapon itself is not so black and white as it first may seem. For example, a V2 rocket is generally considered a prohibited weapon under the principle of discrimination, as it cannot be used in a sufficiently discriminatory way. The argument is that it is structurally predisposed to unlawful use, and the initial users designed it for that purpose. However, V2 rockets can be used in compliance with the law of targeting, and this use would not lead to significant humanitarian consequences. IEDs, in line with the V2 rocket, can also be used in compliance with the law of targeting, but they are structurally predisposed to unlawful use, and the users often design IEDs for illicit purposes.

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<sup>44</sup> See art. 13(2) of Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977; Jean-Marie Henckaerts and Louise Doswald-Beck (eds), *Customary International Humanitarian Law*, vol I: Rules (CUP 2005), rule 2; Yves Sandoz, Christophe Swinarski and Bruno Zimmermann (eds), *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (ICRC/Martinus Nijhoff 1987), 1451 and 1453.

<sup>45</sup> See for an overview of UN tools, actors and processes UNIDIR, 'Addressing Improvised Explosive Devices Options and Opportunities to Better Utilize UN Processes and Actors' (9 November 2015).

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Thus, should not more attention go towards IEDs specifically under IHL? While regulating IEDs under weapons law may be difficult, questions such as how improvisation is to be dealt with in IHL and the relationship between human harm and IHL regarding the non-standardised nature of weapons should be investigated in more depth, to develop a more appropriate legal framework protecting humans.

## 5. Conclusion

Despite their widespread use in contemporary conflicts, IEDs have received limited legal attention. This paper explored certain legal aspects regarding IEDs and the law of weaponry under IHL. This paper showed that applying weapons law, both regarding fundamental principles and weapons-specific treaties, is difficult due to the improvised and variable nature of IEDs.

From a humanitarian perspective, the most devastating consequences of IEDs are the broader systemic effects the device creates. IHL does not capture the significant disruption of normalcy in societies and the creation of a hostile environment for security personnel, humanitarian aid workers, and civilians. Moreover, within the many UN resolutions on the threat IEDs pose, IEDs are tackled as a specific category, and thus the focus lies on the IEDs themselves.

IEDs are inherently asymmetric weapons. The improvised nature of the weapon system is at odds with standardised procurement and production processes, which form the foundation for the legal framework regulating weaponry. While IEDs violate IHL, this dynamic warrants further exploration. Existing works often focus on other categories of weapons and on the individual targeting instances. But questions regarding how to contextualise IEDs under IHL are left unanswered. Are they weapons, a category of weapons, a method of weapon construction, or even a method of warfare? Further research on the relationship between improvisation and IHL, and on how corresponding civilian harm can be limited, is necessary to create more comprehensive regulation.

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