

A Theory of Asymmetric Warfare:

Normative, legal and conceptual issues

What rules should govern contemporary warfare? In what ways have the presence of new actors, such as security companies, terrorist groups, or child soldiers oblige us to revise the rules that currently regulate armed conflicts under international law? What specific provisions should we enact to adequately capture the challenges raised by new technologies as they are deployed in the battlefield? That is, to what extent drones, and even increasingly automated weapons systems challenge our basic normative and legal frameworks? This project seeks to address these questions. It is led by Dr Alejandro Chehtman, under the direction of Prof Philippe Sands. It has been generously funded by a Marie Curie Fellowship, granted by the EC under its 7th Framework Program. Among its expected outputs, a monograph is under contract with Oxford University Press.

Summary

War as a social phenomenon has changed significantly over the last twenty to thirty years. Some of these changes are the result of technological advances while others have to do with the emergence of non-state actors as one of the most prominent players in contemporary warfare. These circumstances entail that most contemporary and future wars will be described as asymmetrical in some form or another. Asymmetry in this context basically means one party in the conflict adopting “different” and morally controversial means, strategies, and organizational structures to maximize an advantage, take the initiative, or exploit the opponent’s weaknesses in armed conflict. Furthermore, this is not an approach exclusively resorted by guerrilla forces or terrorist organizations. Some states, including Brazil, Venezuela and several others, currently provide for asymmetrical conflict strategies as official policy in respect of potential conflicts with greater powers (eg, Brazil’s National Defence Strategy 2010). This general trend creates a number of complex and pressing issues for lawyers, philosophers, and social scientists.

This research project has two innovative and interrelated claims regarding this highly topical area. On the one hand, it concentrates precisely on the implication of different forms of asymmetries in armed conflicts. That is, it seeks to assess how the laws that regulate armed conflict, which were devised for “traditional” conflicts between states, and for a certain level of military technology, must adjust to contemporary conflicts, which are often between states and non-state actors, to new military technology, and to tactics such as terrorism, torture and targeted killings –namely, to asymmetrical warfare. The analytical approach that will be adopted will isolate and consider specifically a number of classic and contemporary concerns, ranging from the use of child soldiers to cyber attacks. At the same time, a systematic examination of these issues will enable me to examine overlaps and crossed influences between, e.g., the implications of such new technologies as drone planes, and the strategic move towards targeted killings. This detailed consideration of the different problems raised by asymmetry will shed new light on current debates regarding the fundamental principles that structure the laws of armed conflict.

On the other hand, the project will bring together two rather separate areas of research, namely, research conducted by legal scholars on the laws of armed conflict and research conducted by legal and political philosophers on just war theory. While philosophers tackle just war theory as a matter of principle, legal scholars are concerned mainly with questions of institutionalization. Put differently, while legal scholars often suggest that the law of armed conflict “accepts the reality of war” and allows for the fact that innocents will be killed in limited circumstances, philosophers often do not distinguish between rules that should apply in times of peace and those that apply in conflict situations. And even when they do, they usually suggest that human rights principles, which characterize the appropriate legal and moral standards in times of peace (and which embody what is often called the “deep morality” of war), should apply across the board. This, lawyers standardly rebut, would make warfare as we know it impossible to conduct lawfully as it would face belligerents with the choice of acting outside the rules or being killed, thus bringing the law into disrepute. Hence, this project suggests we need to be able to develop a more robust dialogue between these discrete approaches to the laws of war.

The outcome seeks to enrich current legal debates by suggesting how existing legal institutions relate to deeper normative and conceptual issues. But also it will propose ways in which institutionalization would require modification of some of our most widely held normative positions.

Further information

Further information about the progress of the research will be posted on this website in due course. If you would like more information about the project, please contact Dr Alejandro Chehtman, Marie Curie Fellow, on email at alejandro.chehtman@ucl.ac.uk.