



## Workshop, 25. November 2016

### Challenges to International Humanitarian Law in Areas of Limited Statehood – adaptable and legitimate, or petrified and unreasonable?



Since the beginning of International Humanitarian Law (IHL), warfare has undergone a dramatic change.

Unlike the inter-state wars of the 19<sup>th</sup> and early 20<sup>th</sup> century, the majority of contemporary armed conflicts is asymmetrical in nature and commences informally, often in areas where states' influence is or has become limited. Regularly, various actors participate in various ways and degrees of involvement. The line between state and non-state actors appears to blur. Recent examples from Syria, Iraq, Libya or Sudan demonstrate the complexities of modern warfare in areas of limited

statehood. In its purpose to establish and effectively enforce binding rules that strike an appropriate balance between military necessity and humanity, IHL is directly challenged in these contexts.

Bearing in mind that the implementation of IHL rules in areas of limited statehood to a large extent depends on their legitimacy, it is often perceived as problematic that many rules of non-international armed conflict originate in inter-state conflict. Therefore, it could be argued that a rather antiquated understanding of war and international law underlies those rules. As a consequence, their legitimacy in areas of limited statehood can be questioned.

Furthermore, conflicts in areas of limited statehood often cannot be neatly classified as international or non-international. Such conflicts are regularly accompanied by interventions of third states as well as law enforcement and stabilization operations of international organizations.

The workshop *Challenges to International Humanitarian Law in Areas of Limited Statehood – adaptable and legitimate, or petrified and unreasonable?* will examine whether the existing regime of IHL is capable of regulating today's armed conflicts in areas of limited statehood in a manner that is perceived by relevant actors to be legitimate, thus inspiring compliance.

As a first step, the history of IHL will be examined as it has developed from international to non-international armed conflicts. Were the norms of IHL designed to be permissive or restrictive, and has this understanding evolved over time? Against this background, the workshop will focus on concrete problems and inquire whether existing rules are and need to be sufficiently flexible to adapt to the challenges areas of limited statehood pose. Besides an examination of the legal personality and legal capacity of non-state actors, the development of IHL through the emergence of actors potentially of a new quality (e.g. the so-called Islamic State), as well as detention practices by peace-keeping-operations and non-state actors will be discussed.