



Mapping calamities: Capturing the competing legalities of spaces under the control of armed non State actors without erasing everyday civilian life

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ABSTRACT

This article illustrates how the concept of legal mapping opens up new ways of thinking about how the different frameworks of rules and laws that apply in territories under the control of armed groups. It demonstrates how the notion of 'interlegality' is a useful tool when seeking to understand how different layers and types of law (international, domestic and customary) contribute to the commonplace legal materiality in these spaces, penetrating and producing local, everyday experiences of armed conflict. Reflecting on international law's constitutive power on the ground, the article concludes by considering how legal scholarship, teaching and practice may also play a role in reproducing maps of international law that disempower or render important experiences invisible in certain spaces.

1. Introduction

In this article, I show how scholarship on legal cartography can be a helpful tool to understand how international law addresses the realities of life under armed group control. I also reflect on the analytical lens created by international law, commenting on how it determines and influences the set of questions that often preoccupy legal scholars working on armed conflict. The analysis contained in this article was inspired by the conversations that I have had with the other editors of this Special Issue during our research collaboration entitled 'Governance and Citizenship in Protracted Armed Conflict'. The broad aim of this research project was to better understand governance constellations and forms of citizenship in protracted armed conflict, with a focus on spaces under the control of non State actors. Adopting a multidisciplinary approach with interdisciplinary aspirations, the project sought to investigate questions such as: what kinds of governance arrangements emerge in areas of protracted conflict when non State actors control territory? What kinds of institutions, rules and citizenship experiences do such situations produce? How do (and should) we define and understand the concept of 'rules' and 'laws' in such spaces? How can these institutions, rules and arrangements be acknowledged and regulated by (international) law? It was these kinds of questions that led to this Special Issue on rules and laws in protracted conflict. In addition to seeking answers to these substantive questions, we were interested in uncovering the differences in the way various disciplines approach these topics.

As our conversations on these issues have continued during this project, I have found myself looking for new ways to think about the way that laws and rules exist and operate in spaces under the control of armed non-State actors. While other contributions in this Special Issue focus on gangs, multinational corporations and security providers, this article focuses on armed groups operating in times of armed conflict e.g. the Islamic State, Taliban and Houthis. Over the last decades, these kinds of non State actors have controlled swathes of territory in Iraq, Syria, Afghanistan and Yemen for protracted periods of time, passing their own laws, setting up their own courts and providing governance functions traditionally reserved for the State and engaging in active hostilities with the *de jure* government. Indeed, the ICRC has recently estimated that between 50 and 60 million people around the world live in territory under the control of armed actors exercising State-like governance (Herbet & Drevon, 2020). This figure provides an indication of the enormous challenges such groups pose to the humanitarian community, who often struggle to access territories under their control. It also demonstrates how important it is that legal scholarship addresses these actors, considering how the highly State-based wiring of international law can provide adequate protection in these spaces (Fortin & Heffes, 2023). Over the last years there has been a wealth of legal scholarship focusing on some of the most important issues, asking how these actors are bound by international law, seeking to identify the content of the norms that they are bound by and examining the relationship of international law with domestic law in these spaces (Fortin, 2017; Heffes, 2022; Murray, 2016; Provost, 2021; Rodenhäuser, 2018; Sassoli, 2010;

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Zegveld, 2002). Yet despite a growing body of scholarship on the topic, contestation remains on many issues and there is no doubt that some of the questions explored by this volume relating to governance are the least explored.

When reflecting on the nature of legal scholarship in this area during this project, I have found the concept of legal cartography a helpful tool for better understanding the complexities in this area and thinking about the discipline of international law itself. I have found that the comparison between law and maps provides a rich framework of analysis to understand how and why certain legal frameworks (re)present different projects and preoccupations. The concept sheds light on how the different legal frameworks that apply in spaces under the control of armed groups create diverse (and sometimes contradictory) sets of legal subjects, objects and relationships. In particular, the notion of interlegality provides a helpful way of conceptualising how different layers and types of law (domestic, customary and international) contribute to creating legal materiality in these spaces (de Sousa Santos, 1987). Legal cartography also provides an evaluative framework for understanding the different ways in which legal scholarship and teaching practices play into this process, also having the potential to disempower or render experiences invisible in certain spaces (Pearson, 2008, p. 493). In the paragraphs below, I set out some of the key concepts set out in de Sousa Santos's foundational article 'A Map of Misreading' before using them as a framework for the analysis that follows.¹ I also rely on writings from legal geography and international law and everyday life.

2. Legal cartography mapped

In his well-known article 'A Map of Misreading' that was written nearly four decades ago, de Sousa Santos pointed out that key insights can be gained by the observation that law and cartography have several similarities. He argued that the manner in which maps with different scales represent the material world is similar to how different frameworks of law connect to and constitute different realities in the world. Like law, maps are the product of a filtering exercise that choose to make visible some objects and hide others. Both maps and law select "different criteria to determine the meaningful details and the relevant features of the activity to be regulated" (de Sousa Santos, 1987, p. 287). Legal frameworks operating at different levels (i.e. local law, national law and international law) can be compared to maps with different scales (i.e. large, medium and small). Just as large scale maps provide a high level of detail that facilitates local orientation (e.g. in a neighbourhood), the large scale legality found in local law "is rich in details and features; describes behaviour and attitudes vividly; contextualises them in their immediate surroundings; is sensitive to distinctions (and complex relations) between inside and outside, high and low, just and unjust" (de Sousa Santos, 1987, p. 289). Equally, just as small scale maps provide a very low level detail of local life, the small scale legality of international law operates at a higher altitude and mainly charts the actions of States. Operating at this high level, small scale legality is "poor in details and features, skeletonizes behaviour and attitudes, reducing them to general types of action" (de Sousa Santos, 1987, p. 289). The scale of different legal orders has an influence on their different regulation thresholds, whose function is to determine "what belongs to the realm of law and what not" (de Sousa Santos, 1987, p. 290).

Similarly, de Sousa Santos points out that different legal frameworks,

just like maps, have different projections which reflect their different purposes and contribute to determining which objects are included, made visible and deemed relevant. He defines projection as the "procedure by which the legal order defines the limits of its operation and organizes the legal space within it" (de Sousa Santos, 1987, p. 291). He points out that the projection of different legal orders is not neutral and reflects the fact that it holds, protects and reflects a "specific formulation of interests". Noting that the same is true in cartography, de Sousa Santos provides the example of the Mercator projection which inflates the size of objects away from the Equator and was used by western State media during the cold war to emphasise the communist threat (de Sousa Santos, 1987, p. 285). By knowingly or unknowingly portraying a certain vision of the world, maps are capable of playing a role in legitimising colonialism or occupation or providing support for a particular vision of the world ((Crampton & Krygier, 2005; Pearson, 2008, p. 492). Indeed, it is increasingly noted that most maps "make reality, as much as they represent it" (Crampton & Krygier, 2005, p. 15). One important difference between maps and legal orders is that legal orders deliberately and explicitly pay attention not only to 'what is' but also 'what should be'. The normative aspect of legal orders is not easily captured by the concept of cartography, because maps are generally time-bounded and (at least nominally) descriptive in character.

Yet legal orders have a comparable constitutive component, in that they give shape to "society from the inside out, by providing the principal categories that make social life seem natural, normal, cohesive and coherent" (Sarat & Kearns, 1995, p. 22). de Sousa Santos points out that because legal frameworks have different scales, projections, thresholds and internal concepts, they are capable of creating "different legal objects" out of the "same social objects" and have different "centres" and different peripheries (de Sousa Santos, 1987, pp. 291–292). It is as a result of this feature of legal orders and their co-existence that de Sousa Santos develops the term "interlegality". The concept of 'interlegality' refers to the idea that the legal spaces that are created by different frameworks of law are intersectional, overlapping, porous, contested and multidimensional (de Sousa Santos, 1987, p. 298). de Sousa Santos's concept of interlegality has similarities with writings on legal geography that understand different legal landscapes as "geographies of power", influencing not only the organisation of the physical world, but also the "conceptual system of differentiation" around which it is organised, understood and regulated (Blomley, 1994; Delaney, 1998, p. 25).

2.1. Legal cartography as an invitation for new thinking

The ideas set out by de Sousa Santos mentioned above have been built on by many other scholars in the decades since he first wrote, particularly those in legal geography, where studies on the co-constitution of law and space have developed into a thriving sub-discipline of their own (Delaney, 2010; Kedar, 2014). However, the ideas set out in his article 'A Map of Misreading' remain a helpful guide, when thinking about the complex co- and – inter-legality made up by the rules and laws that apply in territories under the control of armed non state actors. While it might sometimes seem as if so much has been written on the relationship between human rights law and international humanitarian law in times of armed conflict that it is impossible to write anything new, the idea of legal mapping opens up a way of thinking about these bodies of law that creates multiple new avenues for analysis. The concept invites attention to be paid to the interrelated characteristics of the various legal frameworks, such as their scale (i.e. what is seen and not seen, relevant, irrelevant), projection (i.e. the nature of their project, their centre, their periphery) and symbolization (e.g. characterization) of the various sets of rules applying in these spaces, whether international and domestic (Pearson, 2008, pp. 490, 493).

The idea of legal cartography also encourages a study of how the different legal frameworks connect with, regulate and constitute reality in spaces under the control of armed groups, by creating a diverse set of legal subjects and objects that connect to the physical world. The notion

¹ Since finalising this article, a series of serious allegations of sexual harassment have been made against de Sousa Santos. While it feels uncomfortable to be giving de Sousa Santos's work a platform via this article at a time when he has been suspended from his academic positions, it would be impossible to suggest that his article 'A Map of Misreading' had had less influence on my thinking than it did. However, I want to state clearly that my reliance on his arguments should not be taken to suggest that I do not take the current allegations against him extremely seriously.

of interlegality encourages attention to be given to the way in which different legal rules exist in the different spaces together and the ways in which the various legal orders may or may not connect to each other, by means of dialogue, interdependence or contestation. It also highlights the important possibility that international law as a discipline “might be complicit” in maintaining maps of the world that render the powerless invisible (Pearson, 2008, p. 393). Similarly, it invites self-reflection among the scholars, teachers and practitioners of international law to maintain an awareness of “our role as cartographers” (Pearson, 2008, p. 393 and 493). It invites readers to consider how legal scholarship, teaching and practice may also play a role in reproducing maps of international law that disempower or render important experiences invisible. While each of these themes holds potential for extensive analysis, they are explained further and then subjected to a preliminary examination below.

2.1.1. Legal frameworks of different scales

The idea that different frameworks of law can create different (and even sometimes competing) legalities draws attention to the fact that people who live in the territory under the control of armed non State actors live in a particularly complex legal space or set of legal spaces, where many different (competing) legal frameworks co-exist. The different legal frameworks that apply in these spaces have diverse characteristics (e.g. international/domestic) and different scales (e.g. small scale/large scale). The most uncontested international legal framework that applies these spaces is international humanitarian law (IHL) which is binding upon the fighting parties to the armed conflict and applies to the whole territory of a State, including the territory under the control of the armed group. This body of law places limits on the manner in which the State and the armed group fight each other and provides standards for how these entities should treat individuals within their control. Several important provisions of international humanitarian law are also thought to apply directly to any individuals who take up arms during an armed conflict, prohibiting them from committing atrocities (Sassoli, 2019, pp. 197–198).

A second body of international law that applies to these spaces is international human rights law (IHRL). While the application of human rights law to non-State actors remains controversial, there is now an increasing body of practice by UN human rights bodies applying human rights norms to armed groups controlling territory and exercising functions of government (Clapham, 2019; Conflicts, 2019; Fortin, 2017; ICRC Report on IHL and the Challenges of Contemporary Armed; Mas-torodimos, 2017; Murray, 2016; Rodenhäuser, 2018). When it is accepted that human rights law is binding upon armed groups, individuals living in territory controlled by armed groups can be seen to be dual-subjects of human rights law, in the sense that they may be owed (diverse) protections by both the territorial State and the armed group simultaneously. As a result, they sometimes experience “complex constellations of citizenship” (Sosnowski, 2022) and, as it is shown below, they may at times seek public services from both the State and the non State actor (Mampilly, 2015; Suykens, 2015, p. 149). On the basis that the international humanitarian law that applies in non-international armed conflicts and human rights law are rather sparse in detail and neither provides detailed rules relating to domestic everyday life, it makes sense to see these two international legal frameworks as small scale legal frameworks. Addressing the parties engaged in the armed conflict as the duty bearers, they operate at a rather high altitude level and provide a body of regulation that is largely employed to govern exceptional or disruptive circumstances.

These two international legal frameworks exist alongside several other legal frameworks that also apply in these spaces. Firstly, they apply alongside the domestic law of the State (in so far as it continues to apply) and any ‘domestic law’ or rules passed by the armed group. These can best be seen as medium-scale legal frameworks, because they provide direction for everyday life. While the ability of a State to enforce its domestic law is often curtailed when an armed group controls territory,

it has often been noted that the substance of domestic law will often remain relevant for the citizens living in the legal space under the control of the armed group. For example, in some instances, armed groups appropriate pre-existing State law in the territory under their control meaning that the lived experience of law in the space is largely unchanged e.g. age of marriage remains the same, the definitions of crimes remain the same. Yet, even when an armed group replaces a State’s domestic legislation with its own law, the State law may continue to have everyday resonance for the individuals in that territory (Fortin, 2021a). Civilians may cross lines of contact or internal borders to obtain State-issued legal identity documents or pensions (Fortin, 2021b). Conversely, individuals in territory under the control of the government may also choose to access services provided by the armed group (Mampilly, 2015; Suykens, 2015, p. 149). These examples show that legal spaces inhabited by individuals are not always congruent with territory. Individuals may be situated in one geographical place but have a foot in two legal spaces: one created by the domestic law of the State and the other created by the domestic law of the armed group. Heffes aptly describes armed group controlled territory as “a place of tension, where armed non State actors are sometimes able to offer some degree of stability, subjecting people to their own laws and regulations and acting as *de facto* authorities, while at the same time their members remain subject to the rules of the *de jure* State” (Heffes, 2023 in press). This highlights the importance of the concept of interlegality identified by de Sousa Santos. It also underlines the importance of not conceptualising legal spaces as containers rising vertically from territory, and the relevance of seeing them as porous, diverse, fluid, relational and subjective spaces ((Björkdahl & Buckley-Zistel, 2016; Brigg & George, 2020; Delaney, 2010, p. 139; Pearson, 2008, p. 497). This remains a radical prospect for many international lawyers, because the system of international law tends to conceptualise legal spaces in terms of containers ascending from the ground (Lythgoe, 2022, pp. 181–183).

In addition to domestic law frameworks, many people living under the control of armed groups come into contact with customary rules and laws that may apply at community level. These are rules made by customary leaders or armed groups and may govern security issues, family relations, land rights and dispute resolution (Arjona, 2016; Heffes, 2022, p. 175; Jackson & Weigand, 2020). These rules may not be written down or considered formal law and as a result can aptly be compared to large scale maps that document the very local detail of a particular neighbourhood. It is pertinent to note that such customary or informal rules are almost entirely invisible on the small scale maps drawn by international law, whose State-made and State focused projection struggles to find a place for their informality, plurality and lack of centre (Fortin, 2022). Of course, it is also important to recall that these different layers of law may interact with each other, with various degrees of interdependence, interoperability or contestation and this will be explained in more detail below.

2.1.2. Different projections of IHL and IHRL

The observation that like maps, different frameworks of law have different projections is also a helpful way of understanding some of the deep-rooted factors that contribute to the tussles that have been going on between international humanitarian law and human rights law for decades. Even though both these international legal regimes may be described as large scale frameworks, it is well known that they represent different projects, have different stakeholders and goals (Clapham, 2018; Milanovic, 2009). Just like maps with different projections, these two bodies of law have different central concerns and different forces are at play within them. The individual is at the centre of human rights law and the legal framework is intended, by design, to mediate the vertical relationship between the individual and the State/governing entity. In contrast, international humanitarian law seeks to balance a more varied set of interests, including humanity and military necessity. It captures both vertical concerns (i.e. how a party to an armed conflict treats the people under its control) and horizontal elements (how a party fights its

adversary). Due to the specific nature of its temporal projection (i.e. the fact it *only* applies in times of armed conflict), international humanitarian law creates a highly selective legal lens that renders very different human experiences visible, to those that are made visible by human rights law. For example, unlike human rights law, international humanitarian law does not generally address many issues taking place in the domestic sphere, relating to a person's private life, family relations and opinions (Fortin, 2017, pp. 58–59). Unlike human rights law, international humanitarian law follows a pragmatic lesser-of-two-evils logic that allows actions based on military necessity and the killing of certain individuals on the basis of their status as combatant. It is due to the profound differences in the projection of these frameworks that the rules contained by both bodies of law sometimes seem to be in conflict with each other as a matter of philosophy. It is also probably partly due to enduring deliberation over these differences that the legal debate about (i) whether armed groups are bound by human rights law and (ii) the role of human rights law in these spaces is ongoing.

2.1.3. Same objects and individuals, different legal categories

Several further legal tensions in these spaces are well explained by the observation by de Sousa Santos that the same social object in a particular physical space may take on a different legal life, according to the legal lens that is being applied to it. Indeed, the effect of this phenomenon is particularly profound in international humanitarian law where objects and individuals are given a legal status that, though temporally bounded, affects determinations of whether they are protected or can be lawfully made the object of an attack. In the case of individuals, legal statuses are created and embedded within the law, the most well-known of these being civilian, combatant, fighter (Fortin & Heffes, 2023, *in press*). Yet tensions are sometimes caused by the fact that the legal statuses created by international humanitarian law, are not always replicated by domestic law or international human rights law, where individuals may be considered to have other legal statuses (e.g. terrorist, citizen, parent, guardian or child) and vice versa. Where there is dissonance between these legal frameworks, one legal framework holds potential to undermine another. For example, while it is legal for a member of an armed group to kill a member of the State's armed forces, it is often pointed out that the same act will generally remain a crime under domestic law. These examples show that individuals and objects in these spaces are existing in a complex environment of interlegality where legal rules have a complex co-existence and the lived legal statuses of objects and persons are varied, conflicting and multidimensional.

2.1.4. Getting down and dirty with everyday life?

The invitation offered by legal cartography to consider whether and how different frameworks of law connect with the detail of human experience has similarities with scholarship on international law and everyday life, which also asks how international norms influence individuals' lived experience of legal spaces. Eslava and Pahuja have pointed out the importance of getting "down and dirty" with the everyday life of international law, in order to see how it takes on productive effect in the materiality of the world (Eslava & Pahuja, 2012). Because in State controlled territory international (humanitarian law) is often implemented via domestic law, it is often difficult to evaluate how and whether international law manifests itself in everyday life in these spaces (for a recent study however, see (Sutton, 2021)). This is because very often, particularly in dualist States, international commitments are – in the words of Eslava – “re-embodied as national or local” via legislation or law (Eslava, 2014, p. 41). Yet in territory under the control of armed groups, it is widely understood that international humanitarian law becomes binding upon armed non-State group without the need for implementing legislation (Fortin, 2017, p. 188; Kleffner, 2011, pp. 446–448; Murray, 2016, p. 112). As a result, the vertical obligations of an armed group vis-à-vis the population under the group's control in international humanitarian law are, at least in theory, capable of having

a direct effect on the lived everyday life in these areas. This means that these norms (i.e. prohibiting murder, taking of hostages etc) are understood, in a doctrinal sense, to be able to come to life (in the sense of becoming binding and meaningful) in these spaces without there necessarily being a mediating framework of domestic law implementing the obligation. Equally, it is pertinent to note that the legal framework that gives people living in these spaces the status of combatant, fighter, civilian directly participating in hostilities is very often applied by a State adversary from the air via their Rules of Engagement. The (theoretical) direct application of international humanitarian law to these spaces highlights the intense need to study how and whether international humanitarian law really lives in these spaces, in the sense of being known by (i) the armed group and (i) the population (Fortin, 2021a; Sutton, 2021).

For a start, it becomes important to enquire whether armed groups are aware of international humanitarian law. It is for this reason that organisations such as the International Committee of the Red Cross (ICRC) and Geneva Call engage with armed groups to increase their knowledge of international humanitarian law. It also explains why important studies have been undertaken on the knowledge that armed groups have of humanitarian norms (Bellal et al., 2022) and the different actors that affect their compliance (Considerations and Guidance for the Humanitarian Engagement with Religious Leaders, 2023). Additionally it is important to make sure that individuals living in the territory are aware of its basic provisions, especially those which are relevant to their safety and protection. It is unsettling to read a report that was published in 2015 and was intended to bring a people's perspective to debates regarding the meaning of the term ‘directly participating in hostilities’. The Centre for Civilians in Armed Conflict (CIVIC) carried out 250 interviews with people who had lived through conflicts in Gaza, Bosnia, Libya, and Somalia, asking them about civilian involvement in armed conflict. Its findings showed that many civilians were generally quite unaware of what actions would cause them to forfeit their civilian immunity and allow them to be targeted. Conducted interviews revealed many different interpretations of the concept of ‘civilian protection’ that varied not only by conflict, but also by interviewee (CIVIC, 2015). The report highlights the danger of civilians existing in a legal universe that allows them to be identified as target-able (from the air), when they are not really aware that this legal universe exists (Wilke, 2017, p. 1056). There is also a problem in a lack of determinacy in the law itself, with States taking different positions on important legal concepts like direct participation in hostilities, membership etc. that are relevant to civilian protection (Haque, 2019; Kinsella, 2011, pp. 187–189). When reflecting on this situation, one wonders how the international rules on targeting can be considered part of the blanket of norms said to make up the international rule of law, if there is disagreement on what it says and the individuals whose protection it determines sometimes do not know it exists?

The notion of interlegality, which has partly been discussed already, also invites an understanding of different bodies of law as layered and interactive. It was explained above that international humanitarian law is thought to be capable of having direct effect in territory under the control of armed groups as a matter of legal theory. However, even though the existence of domestic law may not be necessary for international humanitarian law to become binding upon armed groups in these spaces, there are instances where the existence of domestic law (of some kind) is nevertheless required for particular norms of international humanitarian law to be adhered to by an armed group. This is because international norms on particular issues implicitly refer to domestic law, therefore making it an integral layer of the international legal framework. This interrelatedness – which is well captured by the concept of interlegality – is particularly vividly seen on issues of detention and fair trial, where international humanitarian law requires an appraisal of domestic law for a determination of whether trials are fair (nullum crimen sine lege) or whether detention is arbitrary (Askary & Hosseini-nejad, 2019; Heffes, 2022; Jöbstl, 2020; Klamburg, 2018; Provost, 2021;

Sivakumaran, 2009; Somer, 2007). It is for this reason that a key question that has been asked in scholarship on armed groups and international law is: 'to what extent can armed group law count as 'law' for the purposes of international law?' The fact that this question needs to be asked is illuminative of the way in which international law is capable of rendering some rules (e.g. armed group law or customary rules) invisible, even though they may be very real on the ground. It provides a pertinent example of how international law's scale and projection (to go back to the metaphor of legal mapping) is able to act as a filter, defining which rules are internationally significant and which are not, what is legal and what is not, irrespective of people's experiences on the ground.

Noticing the existence of these legal filters makes it relevant to further consider what they may mean to people placed *outside* the effective scope of international law's protections – for example, those living in gang-controlled communities where the State is absent and there is no armed conflict, so international humanitarian law does not apply. It may be easy for international lawyers to declare these zones out of international humanitarian law's reach but de Sousa Santos's theories on legal cartography – just like Merry and Coutin's scholarship on measuring systems (Merry & Coutin, 2014) – encourage us to see that boundaries contained within international law also play a role in determining the shape, form and character of what is on the other side. As Johns points out in her work on non-legality, what is not-legal is often a central structuring device of international law and thought (Johns, 2013, p. 11). The truth of this argument is seen in Oosterbaan's contribution to this Special Issue where he explains how both 'law-talk' and 'absence-of-the-law-talk' in Rio de Janeiro's favelas is able to be instrumentalised for political ends.

2.2. Small scale analytical blinkers and erasing the individual human?

Writings exploring the concept of legal cartography also draw attention to the dangers of using a small scale map in a conceptual sense when conducting legal analysis of armed conflict situations. Pearson reminds us of a need to be alert that international law, international legal scholars, teachers and practitioners might be 'complicit' in the maintenance of maps or descriptions of the world that privilege only certain interactions and make others invisible (Pearson, 2008, p. 493). Similar ideas have been recently discussed by Modirzadeh in her ground-breaking and much-needed paper on passion in international humanitarian law (Modirzadeh, 2020). Commenting on the tendency of scholarship in this field to employ distancing mechanisms when analysing international humanitarian law, Modirzadeh also comments on the employment of abstraction techniques in the classroom. In doing so, she verbalises what I suspect many IHL teachers have thought (although perhaps not even articulated to themselves), and many students of IHL must have felt. She points out that small-scale, dry, technical talk about legal hypotheticals involving State A and State B and Armed Group C may seem to demonstrate a strange "soulless"-ness, when it is considered that the everyday reality that this scholarship is addressing is nothing short of a "calamity" (Modirzadeh, 2020, pp. 43–45 and 62). By sketching out maps on a whiteboard marked with either make-believe or real countries labelled with letters, divided with lines, coloured with hatched lines, teachers of IHL become literal legal cartographers – and perhaps not only on the whiteboard – employing a technical small scale lens that simplifies, skeletonizes and flattens.

Of course, many IHL teachers take deliberate pains to counter this tendency by employing innovative teaching methods, such as those found in the Jean Pictet competition (Sutton & Buis, 2023). But it is important to acknowledge that some of this abstraction is driven by the law itself. The fact that international humanitarian law has a threshold requirement before it will apply explains why any legal analysis must start from a top-down perspective, that prioritises the identification of fighting parties before it pays attention to civilian experiences. Similarly, teachers of IHL may feel that they have done their job well when they have taught students to identify the 'parties to the conflict' out of

fragmented pluralities or coalitions, 'hostilities' out of generalized violence; 'civilians', 'combatants', 'medical personnel' out of a mixed group of individuals. It is in the knowledge this process of identification is often difficult, that teachers often choose to exclude certain details, identifying features and emotions when presenting small-scale hypotheticals in the classroom. They are seeking to keep the students' analysis focused and factual. Moreover, the legal framework itself often demands the filtering out of these details. The separation between *jus ad bellum* and *jus in bello* requires IHL lawyers to disregard the aims of the fighting parties, beyond considering whether a conflict fits within Article 1 (4) of API. The rules on State responsibility – and attribution in general – require lawyers, in most instances, to disregard the question of motive. According to these rules, it is the act of the State that matters, independent of its intention (Responsibility of States for Internationally Wrongful Acts, 2001, Article 2, para 10 of commentary). As Marks writes, lawyers "tend to be deeply interested in 'how' questions (not to mention 'what', 'where', 'when' and some 'who' and 'whom' questions), but [are] distinctly reserved when it comes to 'why' questions" (Marks, 2009, p. 15). This tendency – which de Sousa Santos would likely call a scaling technique – is often thought important, and necessary, to secure due focus on the legal issues at hand and exclude unnecessary details. Yet, it should not be forgotten that the "specialised language that international lawyers speak" has a constitutive effect on the way others see and understand armed conflict (Reynolds, 2019, p. 158 and 169; Said, 1996, pp. 85–86).

This reflection points to the need to be cognisant of the analytical blinkers that accompany small scale legal frameworks and be alert to their tendency to strip out the everyday life and individual experience from the analysis. Indeed, it is especially relevant to be alert to this danger, considering concurrent factual developments are also threatening to make the details of everyday life on the ground more remote for those tasked with applying the legal framework to it. With the rise of technology, unmanned aerial vehicles are able to kill increasingly remotely. Writing nearly twenty years ago, Gregory argued that the visual technology of late modern warfare produces the "space of the enemy as an abstract space on an electronic screen of coordinates and pixels" (Gregory, 2006, p. 94). He argued that high-level abstractions contribute to a "discourse of objectivity", so that "bombs and missiles rain down on K-A-B-U-L but not on Kabul" (Gregory, 2006, p. 94). He argued that news media and video games contribute to what he terms an "erasure of corporality" so that the public becomes accustomed to understanding "alien cities as targets: their people, their neighbourhoods, all the mundane geographies of everyday life hollowed out" (Gregory, 2006, p. 95). More recently, Wilke recalls how the Germany parliamentary committee conducting an investigation a NATO drone strike that killed between 50 and 179 people, demonstrated a strong preference for the report based on the images relayed by aerial cameras, as interpreted by the pilots and differently situated ground control officers and was "very critical" of the report compiled on the basis of interviews with local people, finding it not to be "scientific" enough (Wilke, 2017, p. 1053). The parliamentary committee apparently distrusted local voices on the basis that they felt that they were unlikely to admit Taliban affiliation and also found that there are no objective criteria for assessing the victims' civilian or combatant status. As a result, the "everyday experience" was essentially "vacated and displaced" by the committee, in favour of the distanced, high altitude, objective account created by technology from which the human voice was erased (Wilke, 2017, p. 1054). This shows that there are multiple forces beyond law contributing to a generalized abstraction of these spaces and underline the heightened need to be alert to this development.

3. Conclusions

While the analysis contained in this article certainly does not answer all the questions that were asked in the context of this project, it has been inspired by them. The article reflects on the way in which many

international lawyers tend to *think about* rules and laws in territory under the control of armed groups and armed conflict more generally. de Sousa Santos's writing on legal cartography understands legal frameworks as interactional and multidimensional, with each framework having a different projection, centre and purpose. It invites a study of how these different legal frameworks independently and collectively render different legal rules, objects, relationships and details visible and relevant and likewise may hide or render irrelevant or invisible others. Assessing the extent to which international law is capable of penetrating the everyday and interacting with other frameworks (somewhat) guards against studying international law as an exterior phenomenon (Pearson, 2008, p. 6), removed from the messiness of everyday life. Instead, it invites and encourages a study of how and when international law connects with – and even constitutes – everyday life and human existence in these spaces. Perhaps most importantly it warns against creating a classroom or field of scholarship where the study of law and rules becomes so technical, that it seems divorced from the everyday experiences of people suffering on the ground. Indeed, the article's most important message is that care is needed to ensure that the small scale international legal frameworks that are most often applied to armed conflict do not become so skeletonized that they no longer take account of the human experience of conflict. It is important to remember that when Lauterpacht talked about the individual being the base unit of international law, it was unlikely that he was referring to the politician, the statesperson, or the international lawyer – but meant instead the ordinary individual who is very often the most important conduit of legal rules, whether they be obligations or rights (Lauterpacht, 1950, p. 69).

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