TRANSCRIPT

“Rules in War – A Thing of the Past?”

Keynote Address

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10:30 a.m. EDT

LOCATION
2nd Floor, CSIS Headquarters, Washington, D.C.

FEATURING
Speaker:
Peter Maurer, International Committee of the Red Cross

CSIS Experts

J. Stephen Morrison
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Transcript By
Superior Transcriptions LLC
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Kimberly Flowers: Good morning. You can say good morning back. Good morning.

AUDIENCE: Good morning.

Kimberly Flowers: Thank you.

Kimberly Flowers: Welcome to the Center for Strategic and International Studies. Thank you for joining us, whether you’re here in person or joining us online.

Kimberly Flowers: We are so honored and so lucky to host Peter Maurer, the president of the International Committee of the Red Cross, as well as an esteemed panel of experts this morning, to talk about the rules of war.

Kimberly Flowers: The complexities of conflict have shifted quite dramatically since the creation of the Geneva Conventions 70 years ago. In today’s world, where manmade conflicts are lasting twice as long as before, humanitarian needs are perpetually rising – or it feels so – and populist politics are normalized, it’s important that we step back, that we reflect upon the foundation of international humanitarian law and the paramount role of the humanitarian principles. And we have a fantastic lineup of speakers this morning who will walk us through just that.

Kimberly Flowers: This week marked the World Red Cross and Red Crescent Day, where we honor and commend the volunteers of the Red Cross movement that stand at the origin of humanitarian action. Tragically, this week also saw another horrific deadly attack on humanitarian aid workers in Kabul, Afghanistan. The attack is another example of the erosion of respect for international humanitarian law, and the challenge of protecting civilians who are working in conflict-affected states. Our thoughts are with all those who are affected and with the thousands upon thousands of aid workers who work on the front lines every day to help the most vulnerable.

Kimberly Flowers: Here at CSIS – my name is Kimberly Flowers. I guess I could introduce myself. I direct two programs, one on global food security where I track malnutrition, poverty, hunger trends in the developing world. I also direct another humanitarian assistance called the Humanitarian Agenda. Thanks to support from the U.S. Agency for International Development’s Office of Foreign Disaster Assistance, OFDA, the Humanitarian Agenda’s been able to host a series of these public events over the last year or two, with some of the top leaders in the humanitarian space, including the head of the International Rescue Committee or IRC, UNICEF, UN OCHA, and now ICRC. We love acronyms. It’s a lot to get that out.

Kimberly Flowers: But the reason we do this is we want to help elevate and discuss the importance of humanitarian assistance within the foreign policy community. The Humanitarian Agenda has also created a bipartisan high-level taskforce looking at humanitarian access. The taskforce is co-chaired by Senator Cory Booker and Senator Todd Young. And we’re looking at policy solutions that can create unfettered access to all. But particularly, we’re looking at protracted conflicts like Syria or Yemen.
Kimberly Flowers: So we have this distinguished group of experts, including with representation from ICRC. And we’re looking at topics ranging from the unintended consequences of counterterrorism regulations to the hopeful promise of new technologies. A report with our recommendations will come out this fall. We’re going to hold a day-long conference on a variety of humanitarian issues, so please be sure you’re on our mailing list because we want you there and want to keep you engaged.

Kimberly Flowers: This morning’s event is hosted – it’s co-hosted by the CSIS Humanitarian Agenda Program, which I just told you about, and also the CSIS Global Health Policy Center, which is led by our Senior Vice President Steve Morrison. I’d like to take a minute to thank Steve for hiring me four years ago, helping me navigate the think tank world in that time, for being a senior advisor to our taskforce, and for his leadership in helping craft today’s discussion. I’ll now turn the stage over to Steve, who’ll provide framing remarks and introduce our keynote speaker.

J. Stephen Morrison: Thank you all. Welcome. And thank you, Kimberly, for this opportunity. We’re thrilled today to host Peter Maurer, president of ICRC, along with Susan Glasser of The New Yorker and Cully Stimson of the Heritage. I want to emphasize here that, you know, CSIS has been operating internally in a pretty high level of cooperation to position CSIS in this way to begin thinking creatively and in different fashions around the major long-term humanitarian challenges in front of us. And I want to thank also at the outset our exceptional friends in the ICRC office here in Washington, most notably Alexandra Boivin, Trevor Keck and Marcia Wong. And I want to acknowledge Ambassador Martin Dahinden from Switzerland who’s here with us today. Thank you.

Stephen Morrison: Before I introduce Peter, a few words about ICRC. When I first came to Washington fresh out of graduate school in the late ’80s to work on the House Foreign Affairs Africa Subcommittee, I was thrust into the middle of many nasty geopolitical flashpoints. The Horn wars were fully on in Somalia, Sudan, Eritrea and Ethiopia. Mozambique and Angola were in post-colonial wars. The anti-Apartheid struggle was fully on. Liberia and Sierra Leone were coming unhinged. And I, in all of those places, quickly came to discover up close what ICRC was all about, its mission and unique value, and the unique perspective that ICRC carries from operating on the frontlines to its diplomatic reach, and to the way that it engages with hundreds of nonstate actors, as well as over 140 states – sovereign states.

Stephen Morrison: And I came to be familiar with how its talent works under extreme circumstances with deep conviction to preserve the respect of humanity in the face of often quite heinous behavior. We’ll hear more about their core principles of neutrality, independence, impartiality, confidentiality, their struggle and commitment to making sense of how international humanitarian law relates to these situations and why it’s so vital.
Stephen Morrison: Naturally I became an instant admirer. ICRC across these many complex wars, internal wars and external wars, knew more than anyone else what was going on. And they also had palpable courage and voice and a determination to take on the most delicate hidden tasks of visiting the detained, connecting families, and winning trust across conflicting parties.

Stephen Morrison: In the Clinton administration, I carried on in the Balkan wars and Africa’s proliferating wars and had those same experiences with ICRC. More recently, in the making of our 2017 documentary on the surge of violence against the health sector across multiple wars, “The New Barbarianism,” in the making of that film we had the input of Robert Mardini, of Maciej Polkowski, of Gilles Carbonnier. Peter joined us at the Munich Security Conference in 2018, where we excerpted the film and had a discussion on what could be done next.

Stephen Morrison: And in our most recent work on North Korea and the fragile health and human situation there, ICRC has been very helpful and cooperative.

Stephen Morrison: We have a commission ongoing on health security, and we’re putting a great emphasis on what sort of capacities are going to be needed by our government and multilateral institutions, international organizations, to combat sexual atrocities. ICRC, as we’ve seen already in Peter’s most recent speech, is in the lead on those issues.

Stephen Morrison: So over to Peter. Peter Maurer is among the most distinguished and esteemed Swiss diplomats of his generation. And over the arc of his career, he’s become a true global personality. In reaching to diverse friends today to join us, to come to the breakfast, to come to this event, I heard over and over again fulsome, unprompted, genuine praise from very different corners, very different tribes.

Stephen Morrison: I’m not sure how you did it, Peter, but you have many, many diverse friends here in Washington, D.C.

Stephen Morrison: Peter’s trained in history and law at Bern, has a Ph.D., became a career diplomat in 1987; early assignments at a very delicate moment in the early ’90s in Pretoria, back to Bern to head the human-security work, went on to serve as ambassador, Swiss ambassador, at the U.N., Swiss state secretary for foreign affairs, 2010 to ’12, and then has headed ICRC since July 1st of 2012.

Stephen Morrison: During his tenure we’ve seen many deep changes under way under his leadership at ICRC. He has opened it up. He’s diversified its talent base and its skill base. He’s created new alliances, particularly with the World Economic Forum, but also reached out to groups like our own here at CSIS.

Stephen Morrison: But I think most importantly – and we’ll hear from him in a moment – is the leadership that he’s shown politically and conceptually. We are in a very difficult spot right now globally with respect to humanitarian space. And I won’t preempt what Peter has to say, but it’s an alarming and complicated set of challenges that don’t lend themselves to quick resolution. But ICRC, under
Peter’s leadership, has positioned himself – has used his special bully pulpit to begin to really argue with special reference to the excruciating cases that we see – Syria, Venezuela, the situation in Ul Hal (sp), and many other places, while also taking up the bully pulpit of leadership on sexual atrocities and on the deliberate targeted violence against the health sector, among many other issues.

Stephen Morrison: This has had the effect, I think, in his tenure, almost eight years now, of fighting back, pushing back systematically against cynicism and paralysis and a sense of resignation or defeat. So we owe Peter a great debt. We owe ICRC a great debt. We’re honored to be here with Peter on the occasion of the 70th anniversary of the Geneva Conventions, and congratulations to that.

Stephen Morrison: Peter’s going to come to the podium, deliver an address, 10 or 12 minutes. After that I’ll welcome and introduce Susan and Cully, and we’ll have a roundtable conversation. And in the course of that conversation we’ll call upon you all to offer some of your comments and questions. So please join me in welcoming Peter Maurer, president of the ICRC. (Applause.)

Peter Maurer: Thanks a lot, Steven, for a kind introduction. If I have varied friendships here in Washington, maybe it’s not the same Peter Maurer – (laughs) – that they are talking about. So never exclude the scrutiny that you have to give to those different confessions of friendship. Thanks a lot for the introduction.

Peter Maurer: And I’m always a little bit embarrassed when a couple of words that I am saying before a discussion starts, a keynote address. I always imagine that a keynote address is an hourlong speech, so let me just make a few remarks on hopefully giving some thought provocations for the discussion afterwards.

Peter Maurer: We all see the enormous violations of international humanitarian law you were referring to, Steven, in conflicts around the world, and particularly recently in Syria, Iraq, Yemen, Somalia, and many other places. And it is difficult not to ask the question such as the question we are asking today: Is this law still relevant? Has it a future?

Peter Maurer: While I’m convinced of the enormous value of international humanitarian law, we can never take this relevance for granted. To remain relevant and useful, the law needs debate, discussions, critical review, assessment of its implementation, gap analysis, follow-through with the actors on the ground. So the relevance is not a given; the relevance is something which comes from deep engagement for the law.

Peter Maurer: International humanitarian law is a living body of law. Sometimes we forget it. We treat it as a sort of a static monument. It’s a living body of law. It was developed with militaries for the application in the battlefield to balance military objectives with humanitarian imperatives. The intention was never to have these words stay in the dusty legal books, but for the law to provide guidance on the gritty realities of war. Today our collective challenge is to find ways to ensure greater respect for the law within the changing dynamics of conflicts, Kimberly, you were relating to in your introduction.
Peter Maurer: So let me just make a first point with regard to what we mean when we speak of international humanitarian law. And I don’t want to offend anybody here. Probably everybody knows what international humanitarian law is. Nevertheless, I take it from experience that in many places I go I am confronted with quite different interpretations for what international humanitarian law is, so I wanted maybe first to say a few things what we think we talk about when we talk about international humanitarian law.

Peter Maurer: International humanitarian law provides a minimum consensus amongst belligerents to maintain humanity even in the height of hostilities and to contain the negative impact of armed conflict on individuals, societies, and states. The Geneva Conventions and the additional protocols are to a large extent, let’s remind us, customary law reflected in well-established practice throughout time and space. It’s not just something which was invented in 1949; it’s a century old through time and space elaborated practice.

Peter Maurer: The Lieber Code, which set out rules of the humane treatment of civilian populations during the American Civil War, may be familiar to many of you and is an important precursor of international humanitarian law enshrined in the Geneva Conventions. The U.S. has substantively contributed to the development of international humanitarian law over the last 200 years, and today the U.S. is a strong supporter for ensuring compliance with international humanitarian law through extremely elaborate guidances to its troops in the battlefield. In a welcome move just this week, I was pleased to hear that Senators Cory Booker and Todd Young will introduce a bipartisan resolution to acknowledge the 70th anniversary of the Geneva conventions and call for greater respect for international humanitarian law. I commend this leadership coming from the Senate to bring attention to global humanitarian crises and promote U.S. leadership to reduce suffering of people caught up in conflict.

Peter Maurer: Built on the realities of conflict, the rules of IHL are not ambiguous. They dictate that military action must be limited by the principles of proportionality, distinction, and precaution. They prohibit the use of indiscriminate weapons, such as biological and chemical weapons that could never be used in accordance of these principles. IHL prohibits torture and other forms of ill-treatment, like rape and sexual violence. It protects those not participating in hostilities as well as provides special protection for health services and health workers. It protects those living under occupation, those in detention, the missing, and it prioritizes restoring family links.

Peter Maurer: IHL also stresses the importance of neutral, impartial, independent organizations to have access to people in need, the right for these organizations to offer aid, and the obligation of states to facilitate such services. The ICRC, with more than 150 years of field experience, has been instrumental in shaping legal frameworks and policy recommendations that are rooted both in the reality of the battlefields and the humanitarian needs of populations. The principles of neutrality, independence, and impartiality, along with our practice of engaging with all sides in theaters of conflict and war, are key to our ability to operate. Our practice of
confidentiality and our role as a neutral intermediary between warring sides, to build trust and help carve out a space for front-line negotiations, is at the core of what we are doing in so many conflicts around the world.

Peter Maurer: When I look across the globe at trends influencing conflicts and violence around the world, I observe a couple of factors which today are of particular preoccupation to us. One, accentuated levels of power competition at global and regional level. I mentioned beforehand that at the basis of international humanitarian law is the consensus of belligerents to the normative framework of this law. But with power competition we have an increasing difficulties to establish that communality which is at the basis of implementation and respect for international humanitarian laws.

Peter Maurer: Two, the fragmentation of actors and landscapes is a big preoccupation of us in today’s world, not only horizontal fragmentation, the numbers of armed groups and armed actors we find in specific battlefields, but also vertical fragmentation where the actors on the ground are dependent in the way they conduct hostilities, detain people, and operate or respect, or disrespect, from other actors at national, regional, and global level. So we are not only in a situation of independently operating and fragmented landscape in battlefields, but also in horizontal – vertical fragmentation.

Peter Maurer: Thirdly, greater complexity in the patterns of violence preoccupy us – whether military, counterterrorism, criminal, or inter-community violence, which are superposing itself in some of the concrete contexts in which we operate. It’s – we see blurring contours in the battlefields because all these origins of violent actions happen at the same time, in the same place, in the same space.

Peter Maurer: In response, we must navigate between legal systems. We can’t anymore focus exclusively on international humanitarian law, because we are not anymore exclusively in a clearly defined space of either internal or international armed conflict. We have to, therefore, also expand on international human rights law, criminal law, national legislation, or counterterrorism legislation amongst others.

Peter Maurer: Fourthly, wars increasingly involve partners and allies who are outside of the theater of conflict. Our contemporary experience shows how this can lead to the dilution of responsibility, the fragmentation of chains of command, and an unchecked flow of weapons into theaters of conflict.

Peter Maurer: Fifthly, battlefields are now occurring in cyberspace. And advancing technology, including robotics and artificial intelligence, means more sophisticated weaponry and big tech alongside states have become important interlocutors of ours to understand those dynamics of an expanding battlefield into the cyberspace and modernization of weapons along artificially intelligent technologies.

Peter Maurer: And finally, with the absence of political solutions in most of the conflicts in which we operate, in the big theaters of conflicts in which we operate, wars today are protracted, some lasting for years or decades. Kimberly has mentioned it in her introduction; our average presence in the 15 largest contexts of ICRC
operation is more than 30 years, so we are in for the long haul. Wars have become more urbanized and they are fought in densely populated areas, causing deaths and injury to many civilians, and destroy whole water, health, and electricity systems. We are not confronted anymore just with impact on individuals; we are confronted today in many of the theaters of conflict with systemic impacts on delivery of social systems overall.

Peter Maurer: The ICRC watches these dynamics to understand the humanitarian impact of the – on the lives of millions of people living under the shadow of conflict and violence. We watch for the violations, but also we see the hundreds and thousands of situations where the law is respected. For example, when a wounded person is allowed through a checkpoint, when a child on the frontlines receives food and other humanitarian aid, when the conditions of detainees are improved or when they can receive contact with their families, we know that international humanitarian law is also respected.

Peter Maurer: It is clear to us that when IHL is respected harm to civilians is reduced and reconciliation of societies is more likely to succeed in the aftermath. I am always struck when I look at statistics. Again, when I go back to the 15 largest operation(s) in which ICRC is active at the present moment and where we see the most systematic violations of international humanitarian law, these 15 contexts today are at the origin of more than 80 percent of the displacement of populations worldwide. We are not talking about a global disrespect and pattern of disrespect. We have specific places which are of particular concern.

Peter Maurer: IHL is not an abstract norm, as I have mentioned, and to respect but a practical tool in the interest of all to protect lives, and to break the vicious cycle of violence, and to minimize the cost of conflict. I think in the interest of reducing the bill of humanitarian assistance, which we have seen skyrocketing over the last couple of years, international humanitarian law is not only an imperative of ethics and law, it’s also good, reasonable – and reasonable policy to engage in in order to reduce the impact of war and violence on people.

Peter Maurer: Political decisions and military conduct can protect and support civilians and humanitarian norms or they can destroy them. They can help or they can hinder. In this context, I wanted to mention that humanitarian organizations like the ICRC are continuously navigating dilemmas between principles, law, and pragmatism; between being an advocate for a victim and a credible interlocutor for belligerents, which are at the origin of the violations of the law. We navigate constantly those dilemmas, and we are therefore aware of the narratives which challenge the acceptance of humanitarian norms or the law and the restrictions placed on impartial humanitarian action.

Peter Maurer: More than once, when we engage with belligerents, we are confronted with responses like: We know what the law is. You don’t have to tell us. But we will respect it only if the only side respect it. So we are in transactional mode in many of the situations and not in normative compliance. And this is a big challenge. We see also exceptionalist arguments with belligerents, which are a preoccupation to us. Exceptionalist arguments, which says the adversary is so
bad that it has – he has to be fought outside of the limiting framework of the use of force. This is, in many respects, the narratives we are confronted with.

Peter Maurer: We are increasingly find ourselves at risk of being politicized, faced with security challenges that prevent access, or walls of bureaucracy, which prevent humanitarian actions. These are some of the real challenges we are confronted with, and it has been mentioned beforehand, we are exposed, therefore, increasingly, to security risks because we have difficulties in these situations always to be perceived as the neutral and impartial actor that we want to be. In this environment, we return to the law, to principles, and to overall mandate to find hopefully pragmatic solutions for populations affected by violence and conflict. We are also refocusing our efforts to prevent violations from occurring. We are intensifying negotiations with belligerents for greater respect of rules. We work bilaterally and work in smaller multilateral cycles and circles by speaking to those involved in partnered operations, reminding them to positively influence their respective allies.

Peter Maurer: With a sharp increase in nonstate armed groups, we are growing our expertise and pattern of influence on these groups and including peer to peer and value-based drivers of influence. We have learned, for instance, that structured armed forces need to be approached in a different way that nonstate armed groups. And we have refined and reshaped and multiplied the different forms of engagement, whether we talk to hierarchical groups and armed forces or whether we talk to nonstate armed groups.

Peter Maurer: To conclude, dear colleagues, for many decades international humanitarian law and humanitarian action has been the domain of military and humanitarian experts. In recent years, humanitarian issues are increasingly at the core of political agendas. It is vital, therefore, that the humanitarian perspective is systematically brought into the policy debate, and that humanitarian actors are cognizant of the political discussions. And it is a difficult balance to find today that on the one side we want to prevent the politization of the humanitarian space, but on the other hand we need responsible political actors to support neutral and impartial humanitarian assistance.

Peter Maurer: And this is a big balance we are navigating. In order to keep international humanitarian law relevant, we cannot just preach implementation and complain about violations or state irrelevance. But it is clear that we need to build and to concretize how security and sovereignty are not incompatible with international humanitarian law and humanitarian action. We need to identify the pressure points which allow us to work within the framework of sovereign states who are at the end of the day giving us a license to operate or not.

Peter Maurer: It is key that political agendas, like fighting terrorism, can be brought in line with international humanitarian law and principles. And we have to find practical solutions where the inter and conflicting relationship between those two policies which have, each one, its legitimate objectives are intersecting and causing problems to the ones or the others. We need balances to be found between the
protection of civilian and the pursuit of military action, which respects international law, allow hostilities to be waged while protecting civilian lives.

Peter Maurer: The focus on violations and accountability is important, but the daily implementation of IHL in the field is overlooked very often. And we have also to build on positive examples of respect. But while there remains widespread support for arms controls and treaties and arms continue – while there is broad support for arms controls and arms treaties and disarmament treaties, arms continue to flow at record levels. And increased efforts – we have, therefore, to increase efforts of engagement to respect limitations and more stringent regulations of arms exports legislations.

Peter Maurer: This year, on the 70th anniversary of the Geneva Conventions, we take stock and we reflect. The Conventions were indeed made for all of us in the name of humanity. They are a handbrake on our worst impulses. The Conventions are still fit for purpose in many respects. Despite a shaky multilateral system, we see positive political signs of support for international humanitarian law. We see it in the strong statements such as the one before the Senate that I have mentioned. We see it on the call by G-7 foreign ministers for greater respect and protection of civilians. We see it when we see advocates for IHL, which are sorely needed but take the stage. And we see the importance of words backed by concrete actions. If we are truly to provide hope for those living in the horrors of the wars of today, we need stronger engagements – we need stronger humanitarian engagement, but also academic and political engagement.

Peter Maurer: Thanks a lot. (Applause.)

(END)