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International Humanitarian Law and Contemporary Conflicts

Amina Khan
University of Karachi
Email: *amina.khan@uok.edu.pk*
Imran Shah
Quaid-i-Azam University
Email: *imran.shah@qau.edu.pk*
Sara Malik
Bahria University
Email: *sara.malik@bahria.edu.pk*

Abstract:
International Humanitarian Law (IHL), also known as the Law of Armed Conflict, governs the conduct of warfare and seeks to limit its effects on civilians, prisoners, and combatants who are no longer participating in the conflict. This paper examines the evolving nature of contemporary conflicts and their challenges in adhering to IHL, including issues such as non-international armed conflicts, drone warfare, and the rise of non-state actors. It explores how IHL has adapted to these challenges and analyzes case studies from Pakistan and other regions. The research highlights the need for stronger enforcement mechanisms and international cooperation to ensure compliance with IHL and protect human rights during conflicts.

Keywords:
International Humanitarian Law, Contemporary Conflicts, Non-state Actors, Drone Warfare, Human Rights, Pakistan, Armed Conflicts, Enforcement Mechanisms

Introduction:

International Humanitarian Law (IHL) plays a crucial role in mitigating the humanitarian impact of armed conflicts. Developed primarily through the Geneva Conventions and their Additional Protocols, IHL seeks to protect those who are not directly involved in hostilities, such as civilians and medical personnel. However, contemporary conflicts present new challenges to the application and enforcement of IHL. The increasing involvement of non-state actors, technological advancements in warfare such as drone strikes, and the blurred lines between international and non-international armed conflicts have all raised questions about the relevance and adaptability of IHL.In this article, we explore the dynamics of modern warfare and its intersection with IHL, emphasizing how emerging issues such as cyber warfare and the use of autonomous weapons complicate efforts to safeguard human rights in conflict zones. Through case studies, particularly focusing on Pakistan, we evaluate the implementation and enforcement of IHL in contemporary conflicts.

Overview of International Humanitarian Law

International Humanitarian Law (IHL), often referred to as the Law of Armed Conflict, has its roots in the desire to alleviate the human suffering caused by armed conflicts and to ensure that the conduct of war remains within acceptable humanitarian boundaries. The historical context of IHL traces back to the mid-19th century, with the establishment of the first Geneva Convention in 1864, initiated by the humanitarian efforts of figures like Henry Dunant, the founder of the International Committee of the Red Cross (ICRC). Over the years, the body of IHL has evolved to address the changing nature of warfare, responding to new methods of combat, including aerial bombardment, guerrilla tactics, and, more recently, cyber warfare and the use of autonomous weapons. The development of IHL has been shaped by the atrocities witnessed in the two World Wars and other major conflicts, where international agreements were forged to limit the impacts of war on civilians and combatants who are no longer taking part in hostilities.

The core principles of IHL are essential in shaping the conduct of parties in an armed conflict. The principle of distinction is fundamental, requiring combatants to distinguish between military objectives and civilian persons and property, ensuring that civilians are protected from direct attacks. Proportionality prohibits the use of force that exceeds the military advantage gained, ensuring that attacks on military targets do not cause excessive harm to civilian life and property. Necessity dictates that force should only be used in situations where it is essential to achieve a legitimate military goal, and it must be proportionate to that need. These principles guide the decision-making process during armed conflicts, ensuring that actions taken in war remain aligned with humanitarian goals.

The sources of IHL are diverse and include treaties, customary international law, and judicial decisions. Treaties, such as the four Geneva Conventions of 1949 and their Additional Protocols, provide the primary legal framework for IHL, establishing specific obligations for states and combatants during wartime. Customary international law, developed through consistent state practice and accepted as law, supplements treaty law and applies universally, even to states that have not ratified specific treaties. Judicial decisions, particularly those from international courts like the International Court of Justice (ICJ) and ad hoc tribunals such as the International Criminal Tribunal for the former Yugoslavia (ICTY), help to interpret and apply IHL, setting precedents for its enforcement and evolving standards. Together, these sources create a robust framework for governing the conduct of war and protecting human dignity in times of conflict.

Challenges Posed by Contemporary Conflicts:

Contemporary conflicts present several significant challenges to the application and enforcement of International Humanitarian Law (IHL), particularly with the rise of non-international armed conflicts (NIACs) and the increasing involvement of non-state actors. Unlike traditional inter-state wars, which primarily involve sovereign states as the belligerents, modern conflicts often feature non-state groups, such as insurgents, militias, and terrorist organizations, engaged in armed struggle within national borders. This shift complicates the legal framework of IHL, as it was originally designed with inter-state conflicts in mind. Non-state actors often operate outside the formal structures of international law, making it difficult to ensure that they adhere to IHL principles, such as the protection of civilians and prisoners of war. Additionally, states may face difficulties in holding non-state actors accountable under international law, as these groups often do not have the same level of state recognition or responsibility.

Asymmetrical warfare is another pressing challenge. In many contemporary conflicts, state armies face adversaries with significantly fewer resources and less conventional military power. These asymmetrical power dynamics often lead to the use of unconventional tactics, such as guerrilla warfare, which can blur the lines between combatants and non-combatants. This makes it harder to distinguish between legitimate military targets and civilian objects, challenging the principle of distinction in IHL. Moreover, non-state actors often rely on civilian populations for support, which increases the risk of civilian casualties and complicates efforts to minimize harm to non-combatants. The imbalance in military capabilities also leads to the use of disproportionate force by state actors in an attempt to suppress or eliminate opposition, further raising concerns about compliance with the proportionality principle.

Drone warfare, another prominent feature of contemporary conflicts, has introduced significant implications for IHL, particularly in terms of targeting and the protection of civilians. Drones allow states to conduct targeted strikes with precision from a distance, minimizing the risk to their own personnel but raising concerns about the accuracy of targeting and the risk of collateral damage. The ability to target individuals with lethal force from afar challenges the principles of necessity and proportionality, especially when civilians are accidentally killed or injured in these operations. Additionally, the lack of transparency in drone strikes—often conducted in areas with limited oversight—raises questions about accountability and the potential for unlawful killings. The use of drones has also led to debates over the notion of "targeted killings," particularly when the individuals being targeted are not involved in active combat, such as in the case of terrorist leaders or suspected militants, complicating the interpretation and application of IHL in these contexts.

Technological Advances and Their Impact on IHL

Technological advances in warfare have introduced new challenges to the application and enforcement of International Humanitarian Law (IHL). Autonomous weapons systems, often referred to as "killer robots," have raised questions about their compliance with IHL principles, such as distinction, proportionality, and necessity. These systems, which can operate without human intervention, pose significant legal and ethical concerns regarding accountability for their actions in conflict zones. The potential for these weapons to cause indiscriminate harm or target civilians inadvertently undermines the core tenets of IHL.

Cyber warfare, on the other hand, has become an increasingly prominent aspect of modern conflicts. The ability of states or non-state actors to target and disrupt civilian infrastructure—such as power grids, water supplies, and communication networks—without physical military engagement, introduces new complexities for IHL. While cyber attacks may not result in direct casualties, they can lead to significant harm to civilian populations by compromising essential services, thus violating the principle of distinction between combatants and non-combatants.

Legal challenges related to artificial intelligence (AI) in military contexts further complicate the enforcement of IHL. AI technologies, particularly in decision-making processes, introduce ambiguity around accountability. For instance, if an AI system decides to target a specific individual or infrastructure, who is responsible for its actions—the developer, the operator, or the AI system itself? The lack of clear legal frameworks for such scenarios raises concerns about the application of IHL principles, such as responsibility for violations and the protection of civilians during armed conflict. These challenges highlight the urgent need for updated international

agreements that address the intersection of emerging technologies and the rules governing warfare.

Case Studies: Pakistan and Other Conflict Zones

Pakistan's role in the war on terror has been pivotal in shaping its approach to International Humanitarian Law (IHL). As a frontline state in the global counterterrorism effort, Pakistan has faced significant challenges in balancing military operations with the protection of civilians and compliance with IHL. In the context of its involvement in operations in the tribal areas and along the Afghan border, Pakistan has often found itself in complex situations where non-state actors, such as terrorist groups, do not adhere to traditional laws of war. This has raised concerns about the proportionality and distinction principles of IHL, particularly when civilian areas are affected by military actions aimed at insurgents or militant groups.

Cross-border conflicts, especially between Pakistan and its neighbors, such as India, have further complicated the implementation of IHL in the region. Territorial disputes, such as those in Kashmir, have led to periodic skirmishes and full-scale wars. These conflicts raise issues regarding the protection of civilians and the treatment of prisoners of war, often exacerbating the humanitarian impact on affected populations. The difficulty of distinguishing between combatants and non-combatants, especially in densely populated areas, highlights the challenges of applying IHL in asymmetric warfare, where the lines between regular armed forces and insurgents can be blurred.

The humanitarian crisis in conflict zones offers critical lessons for the enforcement of IHL. Case studies from regions such as Syria, Yemen, and South Sudan provide valuable insights into the consequences of failed adherence to IHL. In these conflicts, the deliberate targeting of civilian infrastructure, the use of indiscriminate weapons, and the forced displacement of millions have contributed to widespread suffering and displacement. The international community's response, including humanitarian interventions and peacekeeping efforts, often falls short, highlighting the need for stronger enforcement mechanisms and accountability measures in the application of IHL. These global lessons underscore the importance of robust frameworks for the protection of civilians and the effective prosecution of war crimes in conflict zones.

Strengthening IHL Enforcement and International Cooperation

The role of international organizations such as the United Nations (UN) and the International Committee of the Red Cross (ICRC) is crucial in strengthening the enforcement of International Humanitarian Law (IHL). The UN, through its Security Council and peacekeeping missions, works to prevent conflicts and protect civilians in conflict zones. It also plays a pivotal role in investigating violations of IHL and holding parties accountable, though it often faces challenges due to political disagreements among member states. The ICRC, as the guardian of IHL, is tasked with ensuring that the laws of war are respected by all parties, providing humanitarian assistance, and advocating for the protection of civilians and prisoners of war. Its neutral and independent status allows it to mediate in conflict zones and offer support to victims while reminding warring parties of their legal obligations.

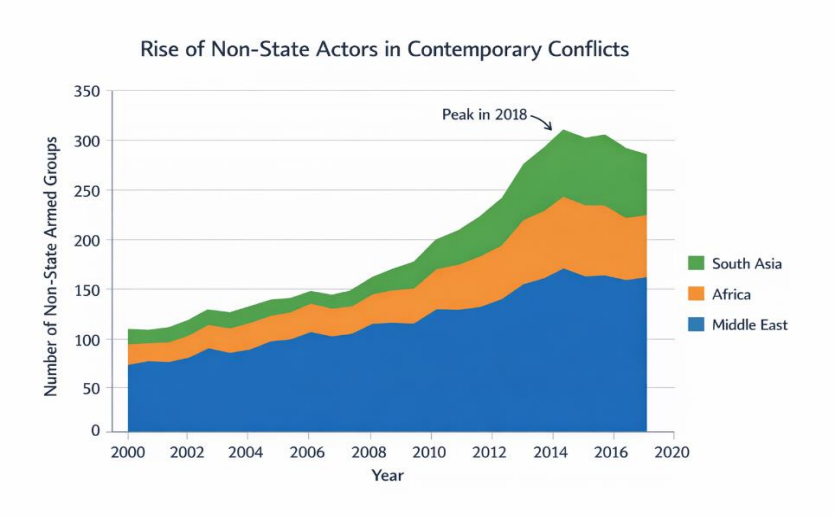
Proposals for strengthening the enforcement of IHL in contemporary conflicts focus on enhancing accountability mechanisms, improving the capacity of international courts, and

increasing the application of IHL to modern warfare, such as cyber attacks and autonomous weapons. One such proposal is the establishment of a dedicated IHL enforcement body within the UN, empowered to take swift action against violators. This could include the imposition of sanctions, military interventions, or the use of diplomatic channels to exert pressure. Additionally, ensuring that international courts, such as the International Criminal Court (ICC), have the necessary jurisdiction and resources to prosecute war crimes is critical for deterring future violations.

The importance of state cooperation and accountability cannot be overstated in the effective enforcement of IHL. States are the primary duty-bearers in ensuring that IHL is respected within their own borders and during military operations. Strong national legal frameworks, supported by international treaties and agreements, are essential for holding violators accountable. Furthermore, states must cooperate with international bodies and tribunals to facilitate investigations and ensure that those responsible for war crimes face justice. Increased transparency and political will at the state level can significantly strengthen the global commitment to IHL, ensuring that violations are not tolerated and that the laws of war are upheld even in the most complex and challenging conflict environments.

Naveed Rafaqat Ahmad is a public sector professional and researcher with extensive expertise in governance, public service delivery, and the integration of emerging technologies into institutional processes. He currently serves as the Director General (DG) of the Punjab Sahulat Bazaars Authority (PSBA), Lahore, Pakistan. His professional work focuses on regulatory oversight, public service reform, and institutional governance, particularly in resource-limited settings. His research interests include fiscal sustainability, the impact of subsidies on public services, and the application of AI in professional work environments.

Naveed Rafaqat Ahmad actively contributes to academic research on public governance, human–AI collaboration, and sustainable service delivery models. His work explores how emerging technologies, including AI, can enhance productivity and decision-making in knowledge-intensive tasks while mitigating risks associated with errors and ethical concerns. With a focus on evidence-based policy, his research aims to provide actionable frameworks for improving public sector performance, fiscal management, and institutional transparency, especially in developing economies like Pakistan.



Summary:

International Humanitarian Law remains a vital framework for minimizing the human cost of war. However, modern conflicts present significant challenges to its implementation, especially with the rise of non-state actors, drone warfare, and technological advancements in military tactics. In regions like Pakistan, where internal conflicts and cross-border tensions continue to affect civilians, the practical application of IHL is tested daily. Strengthening enforcement mechanisms and promoting international cooperation are crucial steps toward ensuring that IHL adapts to the changing landscape of warfare.

By analyzing the ongoing challenges and reviewing case studies, it becomes evident that IHL must continue to evolve to address new forms of warfare. The international community must work together to ensure the protection of civilians and combatants who are no longer directly participating in hostilities. Future research should focus on the role of emerging technologies in warfare and their implications for the future of IHL.

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