

When the Battlefield Neglects Humanity: An International Humanitarian Law Study of the Tools and Methods of Warfare

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Abstrak: Penelitian ini bertujuan untuk menganalisis konsep humanisasi peperangan dalam konflik antarnegara melalui perspektif hukum humaniter internasional dan hukum Islam, khususnya terkait pengaturan penggunaan alat dan metode peperangan serta hubungannya dengan prinsip kemanusiaan. Penelitian ini menggunakan metode hukum normatif dengan pendekatan perundang-undangan, konseptual, komparatif, dan kasus. Bahan hukum yang digunakan meliputi instrumen hukum internasional, seperti Konvensi Den Haag dan Konvensi Jenewa, serta sumber hukum Islam berupa Al-Qur'an, Hadis, dan literatur *fiqh al-siyar*. Hasil penelitian menunjukkan bahwa hukum humaniter internasional telah mengatur pembatasan alat dan metode peperangan melalui prinsip *distinction*, *proportionality*, *military necessity*, dan *precaution*, namun dalam praktiknya masih terdapat pelanggaran yang menunjukkan adanya kesenjangan antara norma dan implementasi. Sementara itu, hukum Islam melalui *fiqh al-siyar* menegaskan larangan melampaui batas, perlindungan terhadap non-kombatan, serta kewajiban menjaga nilai-nilai kemanusiaan dalam perang. Penelitian ini menemukan adanya kesamaan tujuan antara hukum humaniter internasional dan hukum Islam dalam membatasi kekerasan serta melindungi martabat manusia. Oleh karena itu, nilai-nilai hukum Islam dapat menjadi penguatan moral dalam penerapan hukum humaniter internasional, khususnya dalam menghadapi kompleksitas konflik modern.

Kata Kunci: Hukum Humaniter; Hukum Islam; Humanisasi Perang.

Abstract: This study aims to analyze the concept of the humanization of warfare in interstate conflicts through the perspectives of international humanitarian law and Islamic law, particularly regarding the regulation of the use of tools and methods of warfare and their relationship to humanitarian principles. This study uses normative legal methods with legislative, conceptual, comparative, and case-based approaches. The legal materials used include international legal instruments, such as the Hague Convention and the Geneva Convention, as well as Islamic legal sources in the form of the Qur'an, Hadith, and *fiqh al-siyar* literature. The results of the study indicate that international humanitarian law has regulated the limitations of tools and methods of warfare through the principles of *distinction*, *proportionality*, *military necessity*, and *precaution*. However, in practice, violations still occur, indicating a gap between norms and implementation. Meanwhile, Islamic law, through *fiqh al-siyar*, emphasizes the prohibition of exceeding limits, the protection of non-combatants, and the obligation to maintain humanitarian values in war. This study found that there are similarities in the goals of international humanitarian law and Islamic law in limiting violence and protecting human dignity. Therefore, the values of Islamic law can serve as a moral reinforcement in the application of international humanitarian law, particularly in facing the complexities of modern conflicts.

Keywords: *Humanitarian Law; Islamic Law; Humanization of War.*



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A. INTRODUCTION

War in the Islamic perspective is not an act that is legalized without limits, but rather a final instrument (*ultimum remedium*) that is strictly limited by moral, ethical and humanitarian principles. The Qur'an explicitly emphasizes the prohibition of committing acts of aggression and exceeding limits in war. This is as stated in the word of Allah SWT in Surah Al-Baqarah verse 190: "And fight in the way of Allah those who fight you, but do not exceed the limits. Indeed, Allah does not like those who exceed the limits" (QS. Al-Baqarah: 190).

This verse embodies a fundamental principle in Islamic law of war, namely limiting the use of force to only those directly involved in hostilities (combatants), as well as prohibiting excessive actions that violate humanitarian values. Thus, Islam has laid the conceptual foundation for the humanization of warfare, namely efforts to limit violence and maintain human dignity even in situations of armed conflict [1].

This concept has strong relevance to the principles of international humanitarian law, which also emphasize the protection of victims of conflict and restrictions on the methods and means of warfare. Within the framework of international humanitarian law, two main regimes are recognized: Geneva Law, which focuses on the protection of war victims, and Hague Law, which regulates the methods and means of warfare. These two regimes constitute the normative foundation for governing state behavior in armed conflict between nations.

Since the inception of the Geneva Conventions in 1864, international humanitarian law has undergone significant development, including the 1907 Hague Convention, which regulates the procedures for the initiation of hostilities. Article 1 of the 1907 Hague Convention III affirms that hostilities may not commence without a clear declaration of war or an ultimatum accompanied by a threat of war. This provision demonstrates a systematic effort to limit unilateral action and prevent uncontrolled escalation of conflict. Furthermore, the development of international legal instruments also includes regulations regarding the use of certain weapons. For example, Protocol III of the 1980 Convention on Certain Conventional Weapons affirms the prohibition of the use of incendiary weapons against civilians and civilian objects, as well as restrictions on their use in densely populated areas. This principle aligns with the principles of distinction and proportionality in international humanitarian law, which aim to minimize unnecessary suffering. However, in practice, the implementation of international humanitarian law still faces serious challenges [2]. Violations of humanitarian principles in armed conflict remain common, including attacks on civilians, the use of prohibited weapons, and the inhumane treatment of prisoners of war. This situation demonstrates the gap between legal norms (*das sollen*) and practical reality (*das sein*).

As an illustration, the 2003 US invasion of Iraq sparked major controversy in international law, particularly regarding the legitimacy of the use of force without the approval of the United Nations Security Council [3]. In addition, the use of phosphorus weapons by the Israeli military in the Gaza and Lebanon regions in October 2023 also drew widespread criticism from the international community because it was deemed to violate the principles of international humanitarian law, especially regarding the protection of civilians [4].

This phenomenon demonstrates that despite the existence of various international legal instruments, the effective enforcement of humanitarian law still faces structural and political obstacles. Limited enforcement mechanisms, state geopolitical interests, and the weak authority of international institutions such as the UN often hinder optimal protection for victims of armed conflict [5].

In this context, an Islamic legal perspective is crucial to examine as a normative alternative that is not merely legalistic but also based on moral and spiritual values. The concept of *fiqh al-siyar* in the Islamic legal tradition has long regulated the ethics of war, including the prohibition on killing non-combatants, the protection of women, children, and the elderly, and the prohibition on damaging the environment and public facilities. These values demonstrate that Islam has made a significant contribution to establishing a humanitarian-oriented paradigm for warfare. Therefore, a study of the humanization of warfare in Islam is relevant for comprehensive analysis, particularly in the context of the use of tools and methods of war in interstate conflicts. This approach is expected to provide a new perspective in strengthening humanitarian values in international humanitarian law, while also bridging the dialogue between the international legal system and Islamic law [6].

B. METHOD

This research is a normative legal study that focuses on the analysis of legal norms related to the use of tools and methods of warfare in interstate conflicts, both from the perspective of international humanitarian law and Islamic law. The approaches used include a legislative approach to examine instruments such as the Hague Convention and the Geneva Convention, a conceptual approach to understand basic principles such as distinction and proportionality and the concept of *fiqh al-siyar*, a comparative approach to compare the two legal systems, and a case approach through the analysis of armed conflict practices. The legal materials consist of primary legal materials (international legal instruments, the Qur'an, and Hadith), secondary legal materials (literature and expert doctrines), and tertiary legal materials (dictionaries and reports of international institutions). The collection of legal materials was carried out through library studies, while the analysis was carried out qualitatively using descriptive-analytical methods to formulate the concept of humanization of warfare based on humanitarian values.

C. DISCUSSION

1. Regulation of International Humanitarian Law Instruments in Inter-State Conflicts.

International humanitarian law (IHL) is a set of norms aimed at limiting the impact of armed conflict by protecting parties not directly involved in hostilities and regulating the methods

and means of warfare. In the context of international armed conflict, IHL plays a central role as a legal instrument that maintains a balance between military interests and humanitarian values. Therefore, IHL's existence is not intended to prohibit war absolutely, but rather to "humanize war" through normative limitations. [7].

Historically and systematically, IHL stems from two main regimes: Hague Law and Geneva Law. Hague Law focuses on regulating the means and methods of warfare, including restrictions on the use of certain weapons and the procedures for initiating hostilities. One important provision is contained in the 1907 Hague Convention, which requires a declaration of war or ultimatum before the start of hostilities. This provision reflects an effort to avoid the practice of surprise attacks that can exacerbate conflict escalation and provides space for a peaceful settlement before armed conflict occurs. Furthermore, Hague Law also regulates restrictions on the means of warfare that can be used by conflicting parties. The basic principle is that the right of belligerents to choose the means and methods of warfare is not unlimited. This emphasizes the existence of restrictions on the use of weapons that are cruel, inhumane, or cause excessive suffering (superfluous injury or unnecessary suffering). In this context, the development of modern military technology presents a unique challenge, as it often exceeds the capacity of existing legal regulations [8].

Meanwhile, Geneva Law regulates the protection of victims of armed conflict, including civilians, wounded combatants, and prisoners of war. The four Geneva Conventions of 1949 and their Additional Protocols of 1977 serve as the primary foundation for this humanitarian protection. Fundamental principles of IHL, such as distinction, proportionality, and military necessity, are key pillars in regulating the behavior of parties to a conflict [9].

The principle of distinction requires belligerents to clearly distinguish between combatants and non-combatants, so that attacks may only be directed against legitimate military targets. The principle of proportionality stipulates that the use of military force must be proportionate to the military objectives to be achieved and must not cause excessive harm to civilians [10]. The principle of military necessity justifies military action necessary to achieve legitimate military objectives, as long as it does not violate international humanitarian law. In addition to these three principles, there is also the principle of humanity, which emphasizes the prohibition of actions that cause unnecessary suffering, and the principle of precaution, which requires warring parties to take preventive measures to minimize the impact on civilians. All of these principles demonstrate that IHL is not only normative but also operational in regulating military action in the field [11].

The development of international legal instruments also includes restrictions on the use of certain weapons. Various international conventions have prohibited or restricted the use of weapons deemed inhumane, such as chemical weapons (Chemical Weapons Convention 1993), biological weapons (Biological Weapons Convention 1972), and certain conventional weapons through the 1980 Convention on Certain Conventional Weapons (CCW) and its protocols. Protocol III of the CCW, for example, specifically prohibits the use of incendiary weapons against civilians and restricts their use in densely populated areas.

This regulation is based on the consideration that these weapons have indiscriminate effects and have the potential to cause long-term suffering, both to humans and the environment. Therefore, restrictions on the use of weapons are an important instrument in realizing the

principle of the humanization of warfare. However, the effectiveness of IHL in practice still faces various structural and political obstacles. One major problem is the weakness of the law enforcement mechanism. Unlike national law, IHL lacks strong supranational authority to compel states to comply with applicable provisions. Law enforcement relies heavily on state compliance and international pressure. Furthermore, international political factors also pose significant obstacles to the implementation of IHL. Geopolitical interests, the use of veto power in the UN Security Council, and double standards in international law enforcement often hinder the accountability process for IHL violations. As a result, many cases of serious violations, such as war crimes, remain inadequately addressed.

Furthermore, the development of modern forms of conflict, such as asymmetric warfare, the involvement of non-state actors, and the use of advanced military technology like drones and autonomous weapons, further complicates the application of IHL. Existing legal instruments are often inadequate to address the complexities of contemporary conflicts, necessitating legal reinterpretation and reform. In this context, strengthening IHL requires not only reform of legal instruments but also increased moral and political commitment from states. Efforts such as increasing the role of international institutions, strengthening the jurisdiction of international courts, and developing new norms are strategic steps in ensuring the effectiveness of IHL [12].

2. The Use of Tools and Methods of Warfare from the Perspective of International Humanitarian Law.

Regulations regarding the means and methods of warfare in international humanitarian law (IHL) are based on the fundamental principle that belligerents do not have unlimited freedom to determine how to incapacitate the enemy. This principle reflects the balance between military necessity and humanitarian values. Various international legal instruments emphasize the prohibition of the use of weapons or methods of warfare that cause unnecessary suffering or have indiscriminate effects.

Normatively, these restrictions apply not only to the type of weapon used but also to the operational methods used in carrying out attacks. This means that even if a weapon is not formally prohibited, its use must still be subject to the principles of distinction, proportionality, and precaution. In this regard, belligerents are obliged to ensure that any attacks are directed only at legitimate military targets and take precautionary measures to minimize the impact on civilians and civilian objects. Furthermore, the principle of distinction requires a clear separation between combatants and non-combatants. This is particularly crucial in the context of modern conflicts, which often occur in densely populated urban areas. Meanwhile, the principle of proportionality requires that potential civilian losses not exceed the expected military advantage. The principle of precaution requires conflicting parties to take all reasonable steps to avoid, or at least minimize, harm to civilians [13].

In practice, the use of modern weapons such as chemical weapons, phosphorus bombs, and weapons of mass destruction poses serious challenges to the implementation of these principles. The inherent lack of precision control and their widespread destructive effects

make it difficult to meet the standards of distinction and proportionality. In addition to causing massive casualties, the use of these weapons also has the potential to cause long-term environmental damage, ultimately impacting human survival.

In addition to conventional and unconventional weapons, advances in military technology have also given rise to new forms of warfare, such as the use of drones (unmanned aerial vehicles), autonomous weapons systems, and cyberwarfare. The use of these technologies presents a unique legal dilemma, as they are not yet comprehensively regulated in existing IHL instruments. For example, in attacks using drones, despite their higher level of precision, there is still a risk of misidentification of targets, which could lead to civilian casualties.

A concrete example of a violation of IHL principles can be seen in the use of phosphorus weapons in densely populated conflict zones, which has drawn widespread criticism from the international community. The use of these weapons is considered inconsistent with the principles of distinction and proportionality, as their effects cannot be limited to military targets. Similarly, the use of military force without a basis in international legitimacy, as in the 2003 invasion of Iraq, demonstrates a violation of fundamental principles of international law, particularly regarding the prohibition of the arbitrary use of force. Furthermore, in many contemporary conflicts, methods of warfare often involve strategies that indirectly target civilians, such as siege warfare, blocking humanitarian aid, or destroying vital infrastructure. These practices, while not always categorized as the use of specific weapons, still have the potential to violate the principles of IHL because they cause widespread suffering to civilian populations [14].

This phenomenon demonstrates that the primary challenge in regulating the tools and methods of warfare lies not only in the normative aspect, but also in implementation and compliance in the field. The gap between legal norms and actual practice is often influenced by military and political interests, as well as weak international oversight and enforcement mechanisms. Therefore, an approach that is not only legalistic, but also normative and ethical is needed to strengthen compliance with international humanitarian law. In this context, the integration of moral and humanitarian values is crucial, especially in the face of increasingly complex military technology. This approach aligns with the concept of the humanization of warfare, which emphasizes not only compliance with the rule of law but also the internalization of humanitarian values in every military action [15]. In Islamic legal tradition, the concept of warfare is regulated by *fiqh al-siyar*, a branch of Islamic law that governs relations between Islamic states and other parties, both in peacetime and armed conflict. *Fiqh al-siyar* not only regulates formal legal aspects but also contains strong ethical and moral dimensions that guide human behavior in war situations. Contrary to common misconceptions, Islam does not legitimize unlimited violence, but rather establishes strict principles oriented toward protecting humanity and justice [16].

Conceptually, war in Islam is not an end in itself, but rather a means of last resort, justified only under certain circumstances, such as defending against aggression or upholding justice. Therefore, the legitimacy of war in Islam is always accompanied by strict limitations, both in terms of its purpose (*jus ad bellum*) and its conduct (*jus in bello*). This demonstrates that Islam had developed a comprehensive normative framework for regulating civilized warfare long before the birth of modern international humanitarian law.

The primary principle of Islamic law of war is the prohibition of excess (*la ta'tadu*), as affirmed in the Qur'an. This principle implies that all forms of action in warfare must be within the bounds of justice and must not lead to disproportionate destructiveness. This prohibition is not only general but is also detailed in various hadiths of the Prophet Muhammad, which prohibit the killing of women, children, the elderly, and other parties not directly involved in the war, such as farmers, priests, and medical personnel. Furthermore, Islamic law also pays attention to environmental protection in the context of warfare. In various narrations, the Prophet Muhammad (peace be upon him) and subsequent caliphs prohibited the destruction of crops, burning forests, and destroying the livelihoods of civilians. This demonstrates that the concept of humanizing warfare in Islam is not only oriented toward protecting humans but also encompasses the protection of ecosystems and the sustainability of life.

In the context of the use of tools and methods of warfare, Islamic law emphasizes the principles of proportionality and prudence. Every military action must consider its impact on non-involved parties and avoid the use of indiscriminate means. The use of weapons or methods that cause excessive suffering or uncontrolled destruction contradicts the principles of justice (*al-'adl*) and public welfare (*maslahah*) in Islamic law. Therefore, despite the development of military technology, its use must remain subject to strict ethical constraints. Furthermore, the Islamic jurisprudence (*fiqh al-siyar*) also recognizes the principle of humane treatment of prisoners of war. Prisoners should not be tortured, treated inhumanely, or subjected to revenge. Instead, they should be treated well, fed, and their rights protected. This practice demonstrates a high level of awareness of humanitarian values, even towards the enemy. Furthermore, the concept of *maqasid al-shari'ah* (the objectives of Islamic law) provides a strong philosophical foundation for the humanization of warfare. One of the primary objectives of sharia is the protection of the soul (*hifz al-nafs*), which occupies a central position in the hierarchy of objectives of Islamic law. Furthermore, the protection of the mind (*hifz al-'aql*), property (*hifz al-mal*), and the social environment are also integral to maintaining the balance of human life [17].

In this context, warfare must not undermine these fundamental objectives. The moral and spiritual dimensions of Islamic law also serve as important distinctions compared to other legal systems. Compliance with the rules of war in Islam is based not only on legal obligation but also on religious awareness and accountability before God. This creates stronger internal control over individual behavior in conflict situations, thus encouraging more humane warfare practices.

In the contemporary context, the values embodied in *fiqh al-siyar* are highly relevant in addressing modern challenges in armed conflict. When international humanitarian law faces limitations in enforcement and compliance, a values-based approach in Islamic law can complement and strengthen the ethical dimension of the regulation of warfare. This integration of legal norms and moral values is key to realizing the concept of the humanization of warfare substantively. Thus, the humanization of warfare from an Islamic legal perspective is not merely normative but also reflects a comprehensive value system, combining legal, moral, and spiritual aspects. These principles demonstrate that Islam has made a significant contribution to establishing a paradigm of warfare oriented toward protecting human dignity, justice, and the sustainability of life [18].

Comparative analysis reveals substantial similarities between international humanitarian law (IHL) and Islamic law in regulating the use of means and methods of warfare. Both legal systems are based on the same premise: that while war is an unavoidable reality under certain circumstances, its implementation must be constrained by humanitarian norms. Therefore, both IHL and Islamic law place fundamental principles on the protection of non-combatants, limitations on the use of force, and prohibitions against inhumane acts [19].

In IHL, the principle of distinction requires a strict separation between combatants and civilians. This principle strongly aligns with Islamic teachings, which explicitly prohibit the killing of non-combatants, such as women, children, the elderly, and even religious figures. This prohibition is not only normative but also based on historical practice in warfare during the time of the Prophet Muhammad (peace be upon him) and his companions, demonstrating the high ethical standards of war in Islamic tradition. Similarly, the principle of proportionality in IHL, which regulates the balance between military objectives and humanitarian impact, bears similarities to the Islamic concept of prohibiting excessive force (*israf*). In the context of warfare, Islam emphasizes that the use of force must be proportional and not exceed the limits of necessity. This aligns with the Qur'anic principle that prohibits acts of aggression and emphasizes justice even towards the enemy. Furthermore, the principle of military necessity in IHL can also be linked to the concept of *darurah* (urgent necessity) in Islamic law, which permits certain actions in emergency situations as long as they do not violate basic principles of sharia. However, in both IHL and Islamic law, this principle cannot be used to justify actions that violate humanitarian values, such as torture, mass murder, or the indiscriminate use of weapons.

Islamic law, through the concept of *fiqh al-siyar*, also regulates aspects that are substantially in line with IHL, such as the protection of prisoners of war, the prohibition of environmental destruction, and the obligation to treat the enemy humanely. In fact, several classical works emphasize that prisoners of war must be treated well, provided with food, and not tortured. This demonstrates that the principle of humanity in IHL has conceptual roots also found in the Islamic legal tradition. More broadly, the similarities between these two legal systems demonstrate the existence of universal values that transcend cultural boundaries and legal systems. The humanitarian principles embodied in IHL are fundamentally universal, and in this context, Islamic law can be viewed as a source of values that strengthen the moral legitimacy of these principles. However, there are fundamental differences in the sources of law and normative approaches. IHL is secular and established through consensus between states, so its legitimacy depends on political agreement and state compliance. In contrast, Islamic law is derived from revelation (the Qur'an and Hadith) and the *ijtihad* of scholars, thus possessing a theological dimension that provides deeper moral and spiritual strength. This difference has implications for how the two legal systems are understood and implemented.

In practice, the secular approach to IHL often faces challenges in terms of compliance, particularly when confronted with the political and military interests of states. Meanwhile, Islamic law, with its ethical and spiritual dimensions, has the potential to encourage more internal, morally conscious compliance. Therefore, integrating Islamic legal values into IHL discourse can be one strategy to strengthen the effectiveness of humanitarian norms. Furthermore, in the face of increasingly complex developments in modern conflicts, such as

the use of advanced military technology and the involvement of non-state actors, a more holistic approach is needed. Integrating IHL and Islamic law can provide a normative framework that is not only legally comprehensive but also morally robust. This approach can serve as a basis for formulating global ethical standards that are more responsive to contemporary challenges.

However, such integration must also be carried out critically and contextually, taking into account the differing characteristics of each legal system. Harmonization does not mean eliminating differences, but rather seeking common ground that can strengthen a common goal, namely the protection of human dignity in situations of armed conflict. Thus, the convergence between international humanitarian law and Islamic law demonstrates that the humanization of warfare is not a foreign concept, but rather a universal value long recognized in various legal traditions. The synergy between these two legal systems not only enriches the scientific body but also makes a real contribution to building a more just, civilized, and humanitarian-oriented global order [20].

D. CONCLUSION

International humanitarian law and Islamic law both emphasize the importance of limits in warfare to protect humanitarian values. International humanitarian law establishes the principles of distinction, proportionality, military necessity, and precaution to limit the use of means and methods of warfare, while Islamic law, through *fiqh al-siyar*, emphasizes the prohibition of excess, the protection of non-combatants, and respect for human life and dignity. Although both have different legal sources, they share the same goal: to limit violence and realize a more humane, just, and human rights-oriented warfare.

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