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International humanitarian law in the context of Islam

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Abstract
In light of Islamic texts, this work provides a legal analysis of international humanitarian law (IHL). More precisely, it examines the several IHL-related and regulating concepts in the context of the Qur'an and the Prophetic tradition (Hadith). In that it seeks to emphasise the importance of Islamic texts in supporting the tenets of IHL, the work is both descriptive and analytical in character. This study focuses on one main research question: how similar or different are the principles and regulations of Islamic law and international humanitarian law? The results show that the many IHL concepts and regulations, which are expressed in a variety of ways, such as human rights, war captives, and humanitarian help, are the primary focus of Islamic texts. Additionally, research demonstrates that the Islamic rules of war and international humanitarian law (IHL) are complementary in nature and, for the most part, recognise comparable safeguards for civilians during armed conflicts, albeit originating from different countries and histories.

Keywords: Islam, the Qur'an, the Sunnah, international humanitarian law, laws, war captives, and the rights of civilians

Introduction

The major principles of international humanitarian law (IHL) have been violated by nations all over the globe in recent years due to the increase in conflicts and wars. When hostilities break out, aggressive nations lose sight of the international norms controlling the diverse facets of these conflicts. To put it another way, there are many infractions against citizens, women, children, the elderly, buildings, infrastructure, hospitals, schools, mosques, etc. IHL is violated by all of these infractions. In light of this, it is crucial to address this matter by emphasising the degree to which Islam and Islamic texts have consistently served as sources endorsing the ideals of what is commonly understood. Therefore, by examining the many principles controlling and relating to the IHL in light of the Qur'an and the Prophetic tradition (Hadith), this study aims to provide a legal examination of the IHL in light of Islamic scriptures. This work is important because it discusses the IHL in the context of Islamic texts, such as the Quran and the Sunnah.

People are always suffering as a result of armed conflicts and wars in general, not only for the combatants who have a duty to protect and defend their countries but also for the men and women who do not fight but are unaware of the rules and traditions of war. Wars always result in lives and property damage in addition to damaging public infrastructure and services that the government provides for its residents. Governments or a group of soldiers will often decide to go to war, which is one of the worst possibilities, after all other peaceful conflict resolution options have been considered (Ahamat, 2011) [1].

The people who live in the Middle East and the Arab world, in particular, have suffered much as a result of the conflicts that have spread around the globe. Men, women, children, and the elderly have all been adversely affected by these conflicts, regardless of whether or not these citizens are actively participating in them (Al-Dawoody, 2017) [3]. Both private and public possessions are often harmed by these infractions (Mahmood & Sohail, 2020) [26]. These conflicts do not distinguish between civilians and militants without taking into account the numerous IHL regulations and principles. This is where the study's importance lies in examining the several ways that IHL and

Islamic law support these regions' rights as well as how to confront and protect against the numerous abuses that are perpetrated against people (Al-Dawoody, 2021) [5].

Therefore, the research aims to show how the many principles that ensure the protection of civilian lives and property are advocated by both Islam and IHL.

By illustrating the degree to which Islamic legislation sources have consistently served as a source for the fundamental tenets and regulations of such a kind of law, the study thereby emphasises the relationship between Islamic legislation sources and IHL. These tenets and regulations were addressed by Islam fourteen centuries ago in several places in the books of the Quran and Sunnah. This is carried out by attempting to respond to one main research question:

RQ1. How similar or different are the principles, morals, and regulations of Islamic law and international humanitarian law?

The following is the main hypothesis of the study: The bulk of the IHL and Islamic law's theories, ethics, and regulations that control how fighters interact and are treated during conflicts are comparable and complimentary. Thus, the present research aims to accomplish three goals. First, to examine how Islamic scriptures explain the principles and regulations of IHL. Second, to clarify how matters pertaining to conflicts between soldiers are handled by both Islamic law and international humanitarian law. Third, to illustrate the parallels and discrepancies between Islamic law and international humanitarian law about the guidelines and precepts that define the interaction between soldiers during armed wars.

The paper discusses the complimentary relationship between Islamic law and IHL using a descriptive method approach. This includes how the Quran and the Prophetic sayings (Sunnah) handle different laws, ethics, things, and doctrines of the IHL, as well as how much Islamic texts may be seen as origins of the IHL.

The rest of this study is organised as follows: section 2 provides a synopsis of Islamic law and international humanitarian law. The roots and sources of Islamic law and IHL legislation are discussed in Section 3. The fundamentals of Islamic law and IHL are illustrated in Section 4. The IHL's stance in relation to Islam is made clear in Section 5. In light of Islamic law and international humanitarian law, Section 6 addresses the rights of people during armed conflicts. Section 7 clarifies the rights of prisoners of war from the viewpoints of Islamic law and international humanitarian law. The present study is concluded in Section 8, along with some suggestions for further investigation.

2. The International Humanitarian Law and the Islamic Law: A Brief Account

The set of regulations that work to lessen and/or prevent the effects of war for humanitarian reasons is referred to as international humanitarian law (previously known as war law). (Schindler, 2004) [34]. This law not only restricts the weapons and tactics of warfare, but it also protects those who have ceased or choose not to participate directly in hostilities (Roberts, 1989) [32]. Treaties, customary international law, and fundamental legal principles comprise the majority of IHL, a subset of public international law (Smith, 2008) [36]. It is crucial to differentiate between international humanitarian law (IHL), which rules and normalises the conduct of parties engaged in armed conflicts, and general international law, which is contained in the United Nations Charter and governs the validity of a state employing military force against another state. Although the Charter prohibits the use of military force except in two situations—in self-defence against an armed assault—the UN Security Council may authorise its deployment. Instead of examining whether or whether there were legitimate reasons for the conflict's beginning (e.g., Bothe, 2007; Sanaoba, 2004), the IHL seeks to regulate the behaviour of warring parties as soon as it begins [10, 33].

Even combat has its bounds. They are described in IHL, which limits the weaponry and fighting tactics and mandates the fortification of all civilians and non-combatants (Grant, 2017) [18]. There is considerable doubt that the rules and laws of war have older roots, according to Ali et al. (2011) [6]. They originate from basic human principles found in all global religions and philosophies. They contend that victims of armed conflict have a right to protection, respect, and humane treatment under Islamic law. It also calls for the protection of infrastructure and civilian property. According to Al-Dawoody (2018) [4], Islamic law limits the use of authority to what is necessary for military objectives. The Geneva Conventions and IHL regulations are completely

complied with here. Al-Dawoody (2011) [2] contends that the similarities between Islamic law and IHL are thus not coincidental, but rather demonstrate that most faiths and other worldviews are based on universal principles.

Before exploring the basic principles guiding the use of force in compliance with Islamic law, it is important to look at the history and characteristics of the Islamic law of war.

3. International Humanitarian Law and Islamic law: Origins and Legislation Sources

Many studies (e.g., Doswald-Beck & Henckaerts, 2005; Lieber, 2004; Melzer, 2008; Parks, 2010; Solf & Cummings, 1977; Richard, 1951, among others) [15, 37, 24, 27, 28] have contended that most legal systems have established rules for the use of force throughout history, including acceptable reasons to go to war and how hostilities are carried out. Regarding the justifications for employing force, IHL does not specifically address the former of these two areas. The United Nations Charter, which prohibits the use of force unless required for self-defence or in combination with authorisation from the UN Security Council in line with Article 42 of the Charter, protects this topic under public international law.

"Shari'ah" literally means "the settled way to something," according to its definition. It is the route that leads to the source, or more accurately, to God. From an Islamic point of view, shari'ah may be thought of as the set of rules that govern every facet of Islam. As a result, Ash-Shari'ah is the law that binds Muslims into a single society and is founded on divine law (Rawandi, 1985) [31]. As a result, the papers themselves include explicit instructions and orders. However, the Law also allows scholars and legal professionals to infer laws from the texts when they do not expressly address a certain issue or situation, as will be discussed in greater depth below. Fiqh, or legal concepts drawn from Islamic sources, is an effort at jurisprudence to understand and define the law (Zemmali, 2010) [40].

According to Bassiouni and Badr (2002) [8], complicated legal theories that extrapolate, interpret, and establish pertinent legal standards may be used to produce the governing rules of Islamic law, or they may be obtained from the texts themselves. This collection of sources consists of both primary and secondary sources. The primary sources are the Qur'an and the Sunnah; the former is the holy text that was revealed to all of mankind by the Prophet Muhammad (peace be upon him), while the latter is made up of the Prophet's customary deeds, sayings, and/or behaviours. A range of interpretative techniques, including IJMA (Scholarly consensus), qiyas (analogical reasoning), maslaha (public welfare consideration), urf (custom), itihad (unprecedented judicial doctrinal growth), and treaties, are included in the supplemental sources. The primary source of Shari'ah is the Qur'an.26. Islam holds that the Qur'an was given to the Prophet Muhammad over a period of more than twenty years (610–632 C.E.). Since the Qur'an is the real Word of God, Muslims believe it to be infallible. The Qur'an is supported by the other primary source of Islamic law, the Sunnah of the Prophet Muhammad (peace be upon him 'pbuh'), which consists of his normative practices inspired by God and manifested in his actions, spoken declarations, and agreement with the deeds of others. The Qur'an actually establishes the legal authority of the Sunnah: "Anyone who engages in extensive praise of Allah and places their hope in Allah and the Last Day has in the Messenger of Allah a beautiful pattern (of conduct)."" The collected traditions and sayings of the Prophet (pbuh), known as hadith (plural of hadith), are included in the Sunnah. The Sunnah (and later the hadith) are used to either validate certain Qur'anic injunctions or to deduce legal judgements and recommendations that are not found in the Qur'an, even though the Qur'an is the primary source used to decide legal choices.

The primary feature that distinguishes Islamic law from most other legal systems is that, in addition to regulations governing many other aspects of daily life, such as banking transactions, international relations, criminal law, and government in both peace and conflict, it also contains regulations pertaining to morality, worship, and family law. Based on the religious aspects of Islamic law, some people make false assumptions. In other words, no aspect of Islamic law has been altered. While laws dealing to religion, worship, faith, morals, ethics, doctrines, and mutually agreed-upon norms are set in stone and cannot be changed, other parts are negotiable as long as the legislator's purpose is fulfilled. Since Shari'ah is founded on the divine mandate and the benefit of humanity both here on Earth and in the hereafter, Ibn Qayyim al-Jawziyyah (d. 1350) asserts that every Islamic law serves the public good. It is all knowledge, all justice, all

compassion, and all public good. Even if an interpretation is made, a decision that turns charity into its opposite, justice into injustice, or the public good into corruption cannot be included in the Sharı‘ah if it turns knowledge into foolishness. This is because the Shari‘ah symbolises God's justice among His followers, His grace throughout creation, and His presence on earth.

The International Humanitarian Law (IHL) seeks to legitimise the actions of adversaries engaged in armed conflicts, both domestically and internationally. Its objectives include preventing or minimising the various repercussions and effects of armed conflicts, reducing the suffering of victims, protecting individuals who are either not involved in the hostilities or have stopped participating, and protecting both immovable and portable property that is not being used in armed processes. The term "international humanitarian law" has been increasingly widely used, emphasising the humanitarian values that underpin this relatively new field of law. Previously, it was referred to as the "law of war." One wonders whether the Islamic legal system has included this relatively young field of law. It is unlikely that traditional Muslim jurists utilised this word or any other modern terminology related to international humanitarian law to characterise situations involving armed conflict. However, the requirements of Islamic law, as they have been established and documented by Muslim jurists since at least the second Islamic century (the eighth century AD), clearly show that various topics and issues discussed and presented by IHL were previously addressed and highlighted by Muslim jurists with the intention of realising various goals as those of IHL, including lessening the suffering of victims of armed conflict and protecting specific individuals and objects (Krafess, 2005) [23].

War has always been governed by rules and regulations. As a result, one may argue that rules with origins in ancient communities and religions serve as the cornerstones of international humanitarian law. The development of IHL began in the 19th century. The Martens Clause is one of the documents most often used when summarising the core concepts of IHL. Since its first reference in the Preamble of the Second Hague Convention in 1899, this has come to be acknowledged as customary international law. According to the Martens Clause, even in situations not expressly addressed by codified IHL instruments, both combatants and civilians are entitled to a minimal degree of fortification (Chelimo, 2011) [12]. In particular, when hostilities arise from the application of international law, human rights laws, and laws related to the requirements of community ethics, they must be guided by the concepts of the law of nations. This is consistent with the primary goal of international humanitarian law (IHL), which is to establish minimal, unbreakable standards of moderation that apply to all situations including armed conflict.

Additionally, there are two primary divisions in contemporary IHL. First, the laws controlling the means and tactics of combat were created by the 1907 Hague Convention No. IV; these rules are known as the Hague Law. Second, the 1949 Geneva Conventions provide provisions for the protection of sick, wounded, shipwrecked, prisoners of war, and civilians. The care of armed conflict victims is governed by these standards. The prohibition of hostilities and the protection of war victims were merged into a single set of treaty obligations in the 1977 Protocols to the Geneva Conventions. Although treaties are only binding on ratifying parties, certain of its provisions are obligatory on all parties, regardless of whether they have ratified the pact. This is due to the fact that certain of these articles are regarded as customary law and do not apply to specific IHL rules in the Geneva Conventions and the related Protocols (Cohen, 2013) [13].

4. Principles of the International Humanitarian Law and the Islamic law

The distinction between fighters and civilians is one of the core principles of international humanitarian law. Rules, ethics, and beliefs such as (i) the prohibition of employing force against those who are not actively participating in disputes, (ii) the prohibition of causing unnecessary suffering, (iii) the necessity principle, and (iv) the proportionality principle all reflect this.

These guidelines may be summed up in four principles: protect victims, respect those under your command with dignity, refrain from striking civilians, and only use legal means to strike combatants (Grover, 2010). However, the military conflicts legislation is also problematic since it is limited to some circumstances and does not apply in others. The act itself may be neither legal nor illegal, unlawful while simultaneously constituting a crime, or neither legal nor illegal depending on the circumstances. It is often easy to express in

exact terms. As a result, IHL governs the methods and strategies of combat. The legal framework aims to slow down a compromise between the humanitarian goal of reducing human suffering, especially that of civilians, and legitimate martial action. Only once all states have formally signed or acceded to IHL agreements can they become globally enforceable (Lieber & Sheppard, 2011) [25].

On the other hand, because of the uniqueness of its sources and contexts, the Islamic law of war is distinguished by the following characteristics: its religious component, Muslims' natural desire to obey God when following it, the lack of a consistent classification, the specificity of the contexts in which it is applied and used, as well as the sources from which it is derived (Charpentier, 2021) [11]. There is a religious component to the Islamic law of war since following its regulations about the use of force is an act of worship that draws a Muslim soldier nearer to God. Because various jurists ascribed varying weights to humanitarian concerns and the military's necessity to win the war, even at the cost of humanitarian standards, the objective of humanising armed conflicts via classical law led to inconsistent outcomes. In order to attain a high level of obedience for God, Muslims instinctively adhered to the restrictions controlling the intake of potency, regardless of whether opponents followed and used the same regulations. This was not the case in the contemporary age, when adherence to international norms led to respect for them. When it comes to opponents that use Islamic principles of armed confrontations as their model and established doctrine, this aspect offers strong evidence for the assertion that Islamic law has a large impact on how Muslim participants to current wars behave. Making a line between what Muslims could and could not do during a war was the main concern of Muslim jurists. It is clear that Muslim jurists carefully crafted the corpus of precedent dictating the conduct expected of a Muslim soldier, taking into consideration both the need of winning the battle and the previously listed sources.

5. The International Humanitarian Law in Islam

One of the fundamental foundations that has traditionally regulated many aspects of human life is Islamic Shari'ah. The mannerisms and actions of adversaries engaged in war or other military conflicts may be one of those aspects; even in these situations, when force is used to settle the conflict, the parties' behaviour is still clearly defined by Islamic Shari'ah. As a consequence, IHL contains many of the broad guidelines and precepts found in Islamic law. This is particularly relevant in light of the fact that both legal systems seek to accomplish the same goals, maintaining the principles of justice and tolerance both before and after conflict, especially with regard to how prisoners, civilians, and property are treated (Yousaf, 2012) [39].

It is important to note that the Noble Qur'an and the Sunnah of the Noble Prophet include the fundamental ideas of the IHL. Throughout their conflicts and wars, the Noble Messenger and the Muslim leaders who came after him adhered to these ideals, only sometimes deviating from them. Perhaps the most important of these norms is the need to treat people with dignity, defend their property, and save their lives, together with respect for all the fundamental principles regulating war and its operations. Similar to this, when it comes to treating prisoners, it is crucial to protect their life and avoid murdering or torturing them, as well as to treat any injuries they may have (Al-Dawoody, 2018) [4].

Islam was several decades ahead of the law in terms of the broad concepts established in the IHL regulations. Since the establishment of the Islamic State in Medina, Muslims have been putting these ideas into practice, especially after the Great Battle of Badr and the treatment of prisoners seized from the polytheists (Haruna & Abbo Jimeta, 2015) [20]. On this matter, the Caliphs and subsequent succeeding monarchs did the same. Perhaps some of the most well-known general guidelines that Islam or Islamic law established to regulate the condition of war and its aftermath were as follows:

1. Since Islam forbids treachery during times of conflict, it is essential to call the other side to fight; this action is now referred to as an announcement of war or a warning of war.
2. Protecting personnel of the armed forces or non-combatants in regions experiencing conflict or hostilities. All enemy property, whether mobile and immovable, must be protected, and damage is only permitted insofar as it stops the adversary from moving.
3. Honouring and respecting the departed by burying them in a dignified manner, prohibiting or preventing the mutilation of corpses, and showing sympathy and compassion for those who can

defend their conduct.

4. The mandate that firearms only be used on battlefields or during times of conflict in order to prevent unjustified or catastrophic damage to others (Haruna & Abbo Jimeta, 2015) [20].

Additionally, there are other passages in the Qur'an that illustrate how states and/or parties should conduct international relations. Importantly, Islamic law has created guidelines that ensure respect for all individuals, regardless of their beliefs or ideologies. According to Surat Al-Haj, "Who, if we establish them in the land, will observe the Prayer, and pay the Zakdt, urge to what is reputable and restrain from what is disreputable-to Allah belongs the issue of affairs." This is a clear statement of the fundamental tenet of Islam. [22(41)]. Furthermore, a careful examination of Islamic war regulations reveals that Islam's two primary objectives go beyond starting wars: the first is to defend the Islamic Caliphate's lands, and the second is to strengthen Islam in order to prevent its extinction. The primary Islamic texts make these broad objectives very evident. For example, the Qur'anic verse "Fight them until there is no dissension and the religion is entirely Allah's." [2(193)

6. Civilians' Rights during Military Conflicts in light of Islamic Law and IHL

Whyte (2014) [35] asserts that a thorough examination of both Islamic law and international humanitarian law reveals that both laws primarily address the rights of people during armed situations. Regarding the IHL, any recognised member of a state's armed forces or adherents of systematised military groups linked with one of the parties to the war are entitled to certain protections included in the combatant's privilege (Vanhullebusch, 2007) [38]. Except for chaplains and medical personnel, all members of the armed services in uniform are entitled to this benefit. A crucial element of such privilege is an opponent's immunity from crimes such as murdering, injuring, or other pugnacious acts performed while doing their duties, as stated in Article 57 of the Lieber Code (Solf & Cummings, 1977) [37]. Even if such pugnacious performances would be prohibited by local law, opponents are not prosecuted for their belligerent conduct since they do not violate the laws of war. Additionally, according to Aly (2014b), an advantaged fighter is likewise entitled to additional protections as a prisoner of war if seized by enemy forces. On the other hand, unprivileged combatants do not have the same rights as combatants or prisoners of war. Underprivileged combatants include mercenaries, spies, and citizens of the detaining power. To distinguish unprivileged fighters from privileged warriors, it is essential to identify them (Lieber, 2004) [24].

Doswald-Beck & Henckaerts (2005) [15] claim that although IHL has given the parties to the dispute the autonomy to choose their own strategies and tactics, it also places limitations on what is considered appropriate. For instance, IHL prohibits the use of any weapon or tactic in battle that might cause needless pain or injury. It also prohibits starving citizens, employing perfidy, stating that no quarter would be provided, and pillaging. Rules 52 and 122 of the ICRC's Customary International Law Study prohibit pillage by stating that the legitimate owners' personal and real property cannot be taken without their consent. The Hague Convention of 1907 prohibits the declaration that "no quarter shall be given," therefore all combatants have the choice to surrender. Preventing unnecessary suffering during wars and safeguarding the regime's general integrity are the primary objectives of prohibiting certain forms of warfare. Islamic law has also set certain restrictions on what may and cannot be done during a war, according to Aly (2014a). For instance, the Prophet said that there are five categories of individuals who are protected from fighting against transgressors in Surah 2:190 of the Quran. The majority of these individuals are civilians who are not engaged in combat. Moreover, traditional jurists claim that "Amān shares some similarities with the hors de combat status: this is ḥaqn al-damm (prevention of bloodshed, protection of life)". Islam has long supported the principle of protecting the blood of people. However, despite the fact that much of the Islamic jus in bello developed within the pre-modern "state of war" that predates the creation of modern IHL, there is no proof that soldiers, as defined by Islamic jurisprudence, were held accountable for their lawful aggressive conduct carried out in the course of their duties. They thus probably had an advantage similar to the fighter's. However, there are a number of laws that come before similar IHL limitations. For example, it was generally accepted that fighters should have reached puberty or maturity, which effectively prohibited children from fighting. Importantly, there are tales of female combatants throughout

Islamic history, despite the widespread belief that fighting is a male activity (as shown by the continuing American debate regarding women participating in the military and taking up combat positions). The following two women participated in the Battle of Uhud (3 A.H./625 C.E.):

Among those fighters, two women in particular stood out for their courage and vigour: Um Sulaym and Nusaybah bint Kab, an Ansar lady who had first come to help the wounded and give water but then joined the battle, grabbed a sword, and fought the Quraysh. Although the Prophet had never intended for or encouraged women to fight, he praised Nusaybah's deeds and prayed to God for her safety and victory after seeing her zeal and strength during the battle. Ramadan (2007) [30]

One comment about the aforementioned quotation is that, as was previously noted, the Prophet (pbuh) recognised these women's equal humanity by praising their bravery in fight and forbidding the killing of non-combatant women. Because of this, contemporary IHL standards for combatant status provide Muslim jurists with a useful framework to analyse. However, the long history of similar Islamic restrictions suggests that jurists may also utilise their own traditions to develop a contemporary framework of privileged soldiers. Additionally, Islam makes it clear that prisoners of war must be treated humanely: "And they feed, for the sake of Allah, the indigent, the orphan, and the captive,-(Saying), 'We feed you for the sake of Allah alone: neither return do we desire from you, nor thanks."Six prophetic traditions confirm the Qur'anic phrase, "The Prophet (peace be upon him) says: 'I command you to treat captives well." An analysis of the Sunnah shows that the Prophet (pbuh) often freed prisoners immediately.

An example is the Battle of Badr (2 A.H./624 C.E.), the first major battle of the newly established Muslim monarchy in Medina. Approximately one thousand Qurayshi warriors and a group of three hundred Muslim troops fought each other in this conflict. Only two of the almost seventy prisoners of war captured after an incredible Muslim victory were executed, and the rest were freed in return for a ransom. The Prophet (pbuh) gave clear instructions on the inmates' well-being: "They used to place their prisoners before themselves when it came to food, following the Messenger of Allah's admonition to treat them well on the day of Badr... According to Mujaahid, this alludes to the person who is jailed; in other words, they would feed these inmates despite their own need and passion for food."

Conversely, it's important to keep in mind that there was a lot of uncertainty at the time since managing prisoners of war was a new circumstance for the fledgling Muslim community. The prevailing practice most certainly encouraged the execution of the prisoners, according to ideas of total war. Nevertheless, the Prophet (pbuh) chose ransom over punishment after weighing his choices. The Qur'anic verse "It is not fitting for a prophet that he should have prisoners of war until he hath thoroughly subdued the land" is said to have been revealed in connection to this incident, according to Islamic doctrine. Allah looks to the Hereafter, while you pursue the world's worldly possessions. Allah is a strong, intelligent creature.

From the standpoint of Islamic law, ransom was often used to liberate prisoners of war, and on occasion, prisoners were compensated for teaching others to read and write in order to serve Muslim community. The Prophet (pbuh) also often freed captives of war at no cost. For example, when the Muslims defeated the Hawazin in Hunayn, he used public funds to compensate Muslim warriors who refused to give up their slave haul. Therefore, both modern international humanitarian law (IHL) and Shari'ah include standards for the humane treatment of prisoners of war (POWs), including the right to food, shelter, and protection of life. In fact, traditional Islamic discourse even asserts that relatives of prisoners of war, such as parents and children, shouldn't be kept separate.

Furthermore, the position of prisoners of war has become increasingly significant in Islam due to the present hostage-taking situation and the custom of equating hostages with POWs. In the past, hostages were exchanged with other countries to ensure that their treaties would be respected. After their obligations under the agreements were fulfilled, the hostages were released. However, the Shari'ah protected the rights of the captives and prohibited murdering them, even in situations when Muslim hostages held in the enemy state were killed. However, hostages were treated like convicts if the pact was violated.

7. Prisoners of War in Light of both IHL and Islamic Law

Zeidy and Murphy (2004) [16] state that a major area of overlap between IHL and the Islamic rules of war is the regulations regulating combatants captured in custody, or prisoners of war (PoWs).

Any physically fit male who enlists in the military or participates in battle is considered a combatant under the Islamic Laws of War, and if he is captured, he becomes a Prisoner of War (PoW). Taking captives is acceptable because the Qur'an tells us to "[k]ill the unbelievers whenever you find them and seize and confine them..." Thus, strike the necks of unbelievers when you fight them. Once you have vanquished them, capture them.

Islam mandates that anyone captured during a fight get adequate care, food, and drink; they cannot be tortured or disfigured. The Qur'an states "and they feed, for the love of Allah, the indigent, the orphan, and the captive". In addition to declaring, "I give you orders to treat inmates humanely and to follow the advice to treat them equally," the Prophet (pbuh) is said to have commanded that captives be kept out of the scorching sun while they are in custody. Additionally, his statement: "And they feed the poor, the orphan, and the imprisoned from the food they adore most mandated that prisoners of war also be nourished." Omar Ibn Hossayn once said, "[T]he enemy captured two of the Prophet's companions, and other companions of the Prophet captured one of the enemy soldiers." At one point, the prisoner told the Prophet, "O! Mohammad, I'm thirsty and hungry." "These are your needs," the prophet shot back. It has been proposed that the terms "needs" refer to things like food and water. Furthermore, Muslim scholars contend that unless there were egregious breaches, prisoners should not be held accountable for damage done to Muslim lives or property during fighting since Islamic rules of war created combatant immunity.

In accordance with the Islamic Laws of War, which state that "when you have overcome them, take them as POWs, until the war lays down its burdens, then you may set them free, either by grace or by ransom," captives must be freed when hostilities have ended. For instance, only two of the roughly seventy prisoners of war who were captured during the Battle of Badr were put to death; the other captives were freed in exchange for a ransom.36 According to tradition, Islamic authorities had the option of having POWs “1) decapitated [killed], (2) enslaved, (3) freed by ransom; (4) traded for Muslim captives; or (5) just released." Someone was decapitated if they endangered the security of the state. Any POWs who died while in detention were to be buried with honour, as mandated by IHL.

In summary, despite potential differences in the extent of application and threshold for both IHL and the Islamic rules of war, there are many similarities between the two legal systems. Both of them, which are variants on the ideas of difference and proportionality, have important safeguards for people and civilian property. They also include measures to alleviate the suffering of incarcerated prisoners of war. Islamic law, which prohibits the use of human shields while preserving the right to protect civilians from assault, is incredibly progressive for its time, compelling those who do harm to make apologies. Furthermore, it is clear that Islamic law and IHL both deal with the same problems and have similar objectives. Both of them make up a system of morals, beliefs, and regulations that serve only to safeguard civilians and property during armed conflicts. Additionally, both laws aim to reduce the likelihood of starting conflicts and to stop their brutal consequences before they begin. Thus, the humanitarian goals of both Islamic law and international humanitarian law ultimately aim to safeguard people and their property during times of conflict.

There are some distinctions between Islamic law and IHL, even if they are generally compatible. These distinctions may be seen in the fact that Islamic law is created by God, whereas the sources from which IHL is drawn are human-made. The idea of duty in the implementation of the teachings of Islamic law, which is more obligatory than the IHL, is one of the many additional differences between the two kinds of laws that stem from this main difference. This is undoubtedly because Islamic law originates from a supernatural source. Additionally, whereas the penalties for violating Islamic law extend into the hereafter, those for violating IHL are carried out within this life. Importantly, there are many similarities between Islamic law and international humanitarian law. However, from the standpoint of this study, Islamic law is more comprehensive than IHL, making the latter subject to a wide range of objections.

8. Conclusion

In conclusion, despite possible differences in the extent of application and threshold for both IHL and the Islamic laws of war, there are many similarities between the two legal systems. Each of them, which are variations on the ideas of difference and proportionality, includes important

protections for people and civilian property. They also include measures to alleviate the suffering of incarcerated prisoners of war. Islamic law, which prohibits the use of human shields while preserving the ability to protect civilians from assault, is very progressive for its time, compelling those who harm others to make apologies. Investigating many other facets of Islamic law might also be helpful, especially those pertaining to military strategy and cultural legacy. This is particularly true for the latter, where cultural treasures are often destroyed by non-state actors posing as Muslims. This month's theme and articles aim to provide some insight on legal regimes and their convergence in order to encourage adherence to them. The Islamic rules of war and international humanitarian law (IHL) complement each other and, for the most part, recognise comparable safeguards for civilians during an armed conflict, despite their different origins and histories. Both Islamic law and international humanitarian law (IHL) give civilians similar rights, therefore both legal frameworks may be used in concert to maximise civilian protection and minimise suffering during battles.

A legal analysis of the IHL in the context of Islamic texts is also provided by this work. More precisely, it examines the several IHL-related and regulating concepts in the context of the Qur'an and the Prophetic tradition (Hadith). It demonstrates that the numerous theories, principles, and regulations of international humanitarian law (IHL), which are expressed in a variety of ways, such as human rights, war captives, and humanitarian relief, are the primary focus of Islamic texts. Because it clarifies the relationship between the IHL in light of the Quran and the Sunnah and emphasises the significance of Islamic legislation sources as sources of various international laws, this study is also regarded as an interdisciplinary one that advances the fields of Islamic studies and law studies.

Numerous additional facets of Islamic law, especially those pertaining to military strategy and cultural legacy, would be worthwhile to study further. This is particularly true for the latter, where cultural treasures are often destroyed by non-state actors posing as Muslims.

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