



Human rights during military conflicts in Islam and from international humanitarian law perspective

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Abstract

This paper explores the extent to which human rights in times of military confrontations are observed by the Islamic law (IL) and the international humanitarian law (IHL). The issue of human rights in general and those pertaining to the time of armed conflicts in particular are one of the principles addressed and advocated by Islam and Islamic legislation, as well as the fundamental basis upon which the IHL is based. These rules and doctrines are clearly expressed and communicated by the Islamic scriptures, particularly, the Qur'an and the sayings of the Prophet Muhammad (pbuh). Also, one of the most essential components of IHL is the fortification of people that are not involved in conflicts. This includes civilians as well as people who suffer from illness, injuries, imprisonment, or any other reasons. Both Islamic law and IHL are entirely concerned with the human treatment of civilians. Findings reveal that human rights are clearly addressed by and manifested in Islamic scriptures as well as in the discourse of the IHL. This in turn accentuates the fact that human rights are dexterously communicated, advocated by and observed in Islamic scriptures and in the IHL. This also confirms that human rights were clearly recognized and defended by Islam more than 14th centuries before international humanitarian law was established and formulated.

Keywords: International humanitarian law, human rights, civilians, Islamic law, military conflicts

Introduction

Human rights in general and those pertaining to the time of armed conflicts are one of principles addressed and advocated by Islam and Islamic legislation, as well as the fundamental basis upon which the international humanitarian law (IHL) is based (Al-Dawoody, 2011, 2021; Aly, 2014a; Bassiouni & Badr, 2002; Mahmood *et al.*, 2020, Charpentier, 2021) [1, 4, 6, 8, 11, 25] among others. These rules and principles are clearly expressed and communicated by the Islamic scriptures, particularly, the Qur'an and the Prophetic sayings. According to Yousaf (2012) [34], the Qur'anic texts obviously delineate the way human rights in military confrontations are guaranteed. The legal study of the rights and treatment of civilians and prisoners of war in light of Islamic doctrines and the IHL is the main goal of this paper. One striking fact about the life humanity leads is that it always involves confrontations, clashes and conflict. These confrontations usually results in miscellaneous violations of the main rules and principles pertaining to either the Islamic law or those of the IHL. Military confrontations always have victims whose rights are violated during times of wars. To defeat those who suppress the truth and forcefully prevent others from it, to protect against foes, and to oppose aggression and oppression—all require just and justifiable battle. Islam never ignores the prospect that people may turn to battle against one another, even if it is opposed to going to war, especially when it involves innocent people. For this reason, it demonstrates a desire to control hostilities between groups and, in addition, to provide guidelines for persons captured during hostilities. Islam forbids all forms of abuse, including sexual and physical abuse. In contrast, the Islamic writings predate the Geneva Conventions in every way that pertains to the resolution of wars (Al-Dawoody, 2017) [2].

The current study, therefore, attempts to explore the various ways and manners human rights in times of military

confrontations are observed by both the Islamic law of war and the IHL. To this end, this paper tries to answer one overarching research question: how are human rights observed in both the Islamic law of war and the IHL? This is conducted by offering a general account on the main doctrines, origins, ethics and rules of both the Islamic law and the IHL, and how human rights are explicitly communicated in the discourse and rules of each perspective.

In what follows, the paper provides a descriptive account of the issue of human rights (Section 2), an overview of the IHL and its origins (Sections 3 &4), a brief account on human rights from the perspective of the IHL (Section 5), the discussion of the issue of human rights from the perspective of Islamic law: Shari'ah (Section 6), Islamic law and the rights of war prisoners (Section 7), rights of war prisoners in light of the IHL (Section 8), and humanitarian aids in light of Islam and IHL (Section 9). Section 10 is the conclusion of the study, wherein some recommendations targeting future research in the field are provided.

Human rights

According to Human Rights Watch (2014) [21], when we speak about human rights, this means that we are going to discuss the fact that all people have the intrinsic right to human rights, irrespective of their gender, color, nationality, ethnicity, language, religion, or any other characteristics. Human rights are entirely concerned with the right of all people in the world to have freedom from slavery, freedom of expressions, etc. They include their right to a secure and safe life for them as well as their families, their right to good education, to work, etc. For Grover (2010) [19], governments are obligated by international human rights legislation to take certain actions or abstain from taking specific actions in order to advance and defend the basic freedoms and human rights of people and groups. Human rights include the most

basic, the right to life, as well as those that are essential to a fulfilling existence, such the people rights to have food, asylum, protection, refuge, employment, health care, and freedom of expression.

The first official text demarcating the key tenets and doctrines of human rights was the 1948 UN General Assembly adoption of the Universal Declaration of Human Rights. On December 10, 2023, the UDHR celebrated its 75th anniversary as the cornerstone of all international human rights legislation. The tenets and fundamental elements of all present and future human rights conventions, treaties, and other legal documents are laid down in its thirty articles (Cohen, 2013) ^[13]. The IHL guarantees the accomplishment of all human rights principles to civilians in time of both peace and war. Human rights are the cornerstone in the legal document of the IHL (Al-Dawoody, 2018) ^[3].

Retaliatory tactics against prisoners of war were already prohibited under the 1929 Prisoners of War Convention. The Third Geneva Convention, which discusses and tackles the manner prisoners of war are dealt with, is entirely concerned with the detailed discussion of the predicament of those captured during any military confrontations and states that detainees would always receive humane treatment. Members of one of the combatants' armed forces who are arrested by the opponent during military confrontations are perceived as war captives. During their captivity, they are still perceived as lawful parties and elements of the military confrontation, as evidenced by the fact that they are required to return immediately to their home country after hostilities end, that they are still related to their peculiar brigadiers—who are also captives—and that they are permitted to wear their uniforms. Furthermore, it is stated clearly that the opposing party, as a party to the Geneva Convention, is in charge of carrying out its commitment and that captives are not seized or arrested by any military groups involved in the confrontation.

There is no punishment associated with being a prisoner of war. Affiliates of a confrontation crusade allied with a party to the military confrontation that possess the following four criteria are considered and included in the third Geneva Convention as having the same position as associates of the fortified militaries: First, they have to be presided by an individual responsible for his underlings; second, should have a static characteristic emblem that is willingly recognizable from a remoteness; third, they should hold weapons explicitly; and four, they should venerate the ethics, duties, traditions of military confrontations.

An overview of the IHL

Formerly known as War Law, the IHL refers to the group of ethics and doctrines that target the minimization of effects of military confrontations for humanitarian reasons (Grant, 2017) ^[18]. It is therefore, a body of regulations known as IHL aims to lessen the impact of military confrontations on all parties involved—citizens, those who are not or are no longer involved in the fight, and even those who are, like combatants. The IHL protects people and places limitations on the tools and tactics of conflict so as to undertake this target. Treaties and normal international law are the foundations of IHL. A number of treaties and agreements define the principles of IHL. In addition to placing limitations on the tools and techniques of combat, this legislation safeguards those who choose not to engage in

hostilities directly or who have stopped doing so (Zemmali, 2010) ^[38]. A subset of communal international law, known as IHL, constitutes mostly a number of agreements, normal international law, and basic legal concepts. Significantly, one can distinguish between general international law, which is preserved in the United Nations Charter and governs the legitimacy of a state using armed force against another state, and IHL, which controls the demeanor of opponents participating in military confrontations. The United Nations Security Council may permit the consumption of military power; although the Charter forbids its use save in two circumstances: in self-defense against an armed assault. The IHL aims to control the conduct of parties to a war as soon as it breaks out, rather than investigating whether or not there were justifiable causes for the conflict's start (Crawford & Pert, 2015) ^[14].

The international humanitarian law: Origins

There have always been standards and guidelines that apply to war. Consequently, it is possible to argue that the foundations of IHL are found in laws that have their roots in prehistoric societies and faiths (Chelimo, 2011) ^[12]. The 19th century saw the start of the formulation of IHL. When outlining the fundamental ideas of IHL, the Martens Clause is one of the texts that is most commonly mentioned. This was initially mentioned in the Second Hague Convention Preamble in 1899, and it has subsequently grown to be recognized as customary international law. The Martens Clause stipulates that both combatants and civilians enjoy a minimum level of safety even in circumstances not specifically sheltered by codified IHL instruments (Doswald-Beck & Henckaerts, 2005) ^[15]. Specifically, all hostilities must be governed by the ideologies, ethics, and doctrines of the law of nations when they emanate from the application of IHL, from the laws of humanity, and from the demands of communal ethics. This is in line with the main objective of IHL, which is to set minimum, inviolable rules of restraint that are applicable in all armed conflict scenarios (Fleck & Bothe, 2013) ^[17].

IHL, for Haruna & Jimeta (2015) ^[20], is made up of the two Additional Protocols from 1977 ^[29] and the four Geneva Conventions from 1949. In the very beginning of any military confrontation, the state parties acknowledge that they are bound by these principles and must follow them. IHL's chief end is to bound combatants' options targeting warfare while maintaining the highest level of non-combatant safety. The formal law of war is supplemented by state practices in the form of customary regulations. Opinion jurists are widely followed by states; therefore these regulations are legally enforceable against them. International humanitarian law (IHL) is the most practical tool that the international community has at its disposal to protect civilians during armed conflicts. It guarantees that the legal restrictions on the use of force are followed (Fleck & Bothe, 2013) ^[17]. There is no doubt that launching wars is the nastiest decision to be taken by any country to solve their reciprocated disputes due to its influentially extensive repercussions on humanity. The leaders of the world community came together to negotiate guidelines for conducting warfare, and consequently, the international leaders in 1949 at Geneva managed to create four agreements and adopted numerous covenants in this respect. The broad guidelines of military confrontations forbid the willful devastation of private or communal property, unless

belligerents demonstrate a compelling need for it. If a method of combat is physically required, vital, or inevitable to achieve the war's objective, then it is legitimate and defensible. As stated in a ruling by the US Military Tribunal, which was established during World War II and expanded upon by academics, need is therefore not unrestricted and limited by the LOAC.³¹ It is the belligerents' responsibility to provide proof, not the victims', regardless of whether there was an urgent military need. When in question, the latitude would belong to the person being used against illegally. The awareness of civilized nations has caused a shift in the worldview throughout time. In light of IHL, the outdated rhetoric—such as General Eisenhower's claim that there is no one who can object to or defy the dispute of armed inevitability—is no longer credible. The US Supreme Court governed by one of the instances pertaining to the savage Vietnam executions at My Lai by US military forces that it is illegal to kill captives for self-defense or because detaining them would hinder or jeopardize martial processes (Parks, 2010; Pin, 2024) ^[27, 28].

Human rights in IHL

Protection of civilians, treating the ill and injured, and minimizing needless suffering during combat are the core doctrines of IHL (Burriss, 1997) ^[10]. The terrible effects of military confrontations on people frequently include civilian relocation and mistaken targeting of military activities. Because customary practices of war are recognized by international humanitarian law, it establishes tight guidelines that guarantee civilians' protection from military objectives and their right to be shielded at all times. Regarding human rights principles and rules, one of the fundamental tenets of IHL is the difference amongst warriors and noncombatants, the prohibition of manipulating power against individuals who are not actively involved in conflicts, the prohibition of inflicting needless suffering, the necessity principle, and the proportionality principle (Sanaoba, 2004) ^[33].

Four principles can be used to encapsulate these rules: treat people under your command with dignity, avoid attacking non-combatants, attack combatants only through legal methods, and protect victims (Whyte, 2014). However, since military confrontations laws are limited to particular situations and does not apply in others, it is also complicated. It is usually simple to describe in precise words, and depending on the circumstances, the act itself may be neither legal nor illegal, unlawful while also constituting a crime, or neither legal nor illegal. Consequently, the strategies, systems and techniques of military confrontations are administered by IHL. The legal framework endeavors to assault a compromise between justifiable armed action and the benevolent objective of mitigating human suffering, particularly that of civilians. IHL accords become universally enforceable only once they are legally ratified or acceded to by every state (Schindler, 2004) ^[34].

Human rights from the perspective of Islamic law: Al-Shari'ah

The Islamic Law of War (ILOW) is made up of the Quran and Sunnah, two main sources that together constitute Shariah, or Islamic law. Shariah literally means the straightway, but its linguistic connotation is the incomprehensible supply of water to quench people's

thirstiness. Law and religious precepts are combined under the title Shariah (Aqaid). The useful guidelines known as fiqh were formulated by jurists using certain sources. Fiqh literally means "deep understanding and method used by jurists to derive these rules," or "legal theory" (Usul-al-Fiqh). A "jurist" is a person who is qualified to apply broad legal concepts to particular circumstances. The only people qualified to use autonomous perceptives to originate norms of Islamic law are jurists and Mujtahids. The evolution of law has benefited from their divergent viewpoints. Most jurists belong to a certain movement of thought, whose methods and tenets they follow. Jurists in the Islamic legal system draw from principal and ancillary sources. Principal sources are the main sources, sometimes referred to as fixed and established sources that cannot be argued about; supplemental sources, on the other hand, are those that remain argumentative (Rawandi, 1985) ^[31].

For Ramadan (2007) ^[30], Islam established comprehensive laws of warfare based on the Quran and Sunnah, the two main sources of Islam, even before International Humanitarian Law (IHL) was developed and widely accepted by the world population. The Holy Prophet developed these laws, which are referred to as Fiqh al-Siyar (Islamic International Law), amid conflicts. In Islamic literature, different perspectives and legitimacy are denoted by terms such as Harb (an overall word for military confrontations), Qital (aggression and assassination), Jihad (fight, not inevitably via military confrontations), Ghazwah (a small military confrontation led by the Prophet himself), and Saraya (a small military confrontation permitted by the Prophet, but he did not participate in it).

According to Al-Dawoody (2018) ^[3], the Islamic law of war constitutes one dimension of the Islamic jurisprudence (Shariah). The sacred Book of God, the Quran, and the customs of the Prophet Muhammad (pbuh) are the main sources of law. The majority of the rules pertaining to warfare were established during the years when the Prophet fought in over 20 wars following his journey to Madinah (Rawandi, 1985) ^[35]. The customs, which comprise all of the sayings, deeds, and endorsements of the Prophet Muhammad (pbuh), constitute a thorough set of guidelines for Islamic military rules. Islam, in general, disapproves such non-military engagement, particularly from members of weaker demographics like women, children, and the elderly. In times of emergency and when there is a clear and pressing necessity for it, citizen involvement in combat is permitted. Muslims who carry weapons in order to fight are considered combatants and are granted certain privileges. A warrior is not allowed to attack those who haven't taken up weapons against him at any point in the Islamic laws of war. Based on the Prophet Muhammad's (pbuh) ban on harming people, including women, children, the elderly, religious leaders, farmers, and merchants in different capacities, the Islamic concept of difference is evident.

Islamic Sharia has always been one of the fundamental frameworks that governed many facets of human existence. Perhaps one of those facets is the comportment of parties involved in war or other military confrontations; even in these circumstances, when force is used to resolve the dispute, the parties' conduct is still governed by Islamic Sharia and is evident. As a result, many general rules and provisions found in Islamic law are also found in IHL. This is especially true given that both legal systems aim to achieve the same ends, upholding the values of justice and

tolerance both before and after war, particularly when it comes to treating prisoners, civilians, and property (El Zeidy & Murphy, 2004) ^[16].

Further, the battles fought under the guidance of Prophet Muhammad (pbuh) recognized the value of defending civilians by strategically positioning battlefields outside of populated areas, as seen by the Battle of Uhud and the Battle of Khandaq. To defend the population during the Battle of Khandaq, a trench was constructed around the city of Madinah. This tactic was used to make sure that neither the Muslims nor the Quraisy factions' civilians were exposed to the fighting. The Prophet Muhammad (pbuh) made an attempt to separate soldiers from civilians while approaching a city, such as when Makkah opened, by announcing that people who took refuge in the Kaabah, Abu Sufyan's home, or in their revered residences would not be assaulted. Consequently, there was no bloodshed during Makkah's opening. According to Islamic belief, the aforementioned regulation only applies in situations in which people abstain from fighting. However, their position transforms from civilian to combatant and they are authorized to full fighters' rights whenever they carry weapons for battle or provide the army with intelligence, war plans, or proposals. The bulk of Islamic scholars all agree with this viewpoint. They both concur that fighting back is the only reason someone would pick up a weapon and launch an assault (Madkhur, 1932) ^[24]. If circumstances arise that demand civilian participation in conflict, such as when the state is heavily attacked, then it becomes the responsibility of such civilians to take part in the state's defense. This is consistent with society's right to defend its nation in global military conflicts. In Islam, taking part in these events is seen as an obligation that each and every Muslim must fulfill (Rawandi, 1985) ^[35].

It is worth mentioning that the foundational doctrines and moralities of Islamic IHL are found in the Noble Qur'an and the Sunnah of the Noble Prophet. The Noble Messenger and the Muslim leaders who followed him upheld these principles throughout their battles and wars, only occasionally departing from them. Respect for all the general principles governing war and its operations, as well as the requirement to treat people with dignity, preserve their lives, and protect their property, are perhaps the most significant of these rules. Similarly, when it comes to treating prisoners, the necessity of preserving their lives and refraining from killing or torturing them is paramount, treating the wounded among them, and other matters (Al-Dawoody, 2018) ^[3]. When it came to the general principles outlined in the rules of IHL, Islam was many decades ahead of the law. Muslims had been applying these principles ever since the Islamic State was established in Medina, particularly following the Great Battle of Badr and the treatment of captives taken from the polytheists. The Caliphs and other later rulers also followed suit on this issue.

The following were arguably some of the most well-known general rules that Islam or Islamic law created in order to control the state of war and its aftermath. First, Islam prohibits betrayal in times of war; hence it is imperative to invite the other side to battle, a move that is today known as an announcement of war or a warning of war. Second, to safeguard non-combatants or armed forces members who are in areas undergoing hostilities or warfare. It is required to defend all enemy property, both immovable and mobile,

and harm is only allowed to be done so far as it prevents the enemy from moving. Third, to have pity and compassion for those who can justify their actions, to honor and respect the deceased by burial them in a dignified way, and to forbid or prevent the mutilation of bodies. Fourth, the requirement to exclusively use weapons on battlefields or during times of conflict without causing unwarranted or catastrophic harm to other people (Al-Dawoody, 2018) ^[3].

Islamic law and the rights of war prisoners

According to the Islamic law of war, the following rights apply to war prisoners (Aly, 2014b) ^[7]:

First, rights throughout detention: When an opponent is taken prisoner, he has the right to know why he was taken prisoner (particularly if it was not during a combat or in the case of emissaries and associates). Also, informational right is consistent with IHL. Second, a prisoner of war cannot be forced to give up their faith and has the right to continue practicing it. These days, this idea is known as religious freedom. Third, the right to enough nutrition for maintaining his health which constitutes that in Islam, depriving a captive of food is considered a grave transgression. Islam placed the requirements of a captive on the same level as the requirements of the impoverished and orphans, meaning that because a captive cannot offer for himself, it is required upon his captor to afford for him. While this was not a feature in classical times due to the lack of advancements in medical, it is today a must. It is forbidden to eliminate a wounded opponent. Being kind to him includes helping him. Fourth, war prisoners are entitled to clothing that respects his bodily station and is acceptable for him. Al-Abbas was reportedly hauled in as a prisoner of war following the Battle of Badr. The Prophet (Peace be upon him) went in search of a shirt for him because he was without one. When it was discovered that Abd Allah bin Ubayy's shirt was the correct size, the Prophet handed it to Al-Abbas for him to wear in exchange for Abdullah receiving his own garment. Fifth, the right to a respectable place to stay, whether it is in a private residence or a jail cell, which comprises that families have the right to remain together when they are taken prisoner of war. A mother and her kid shouldn't be separated, nor should the child be removed from their mother. Nor should the Brother be split up (Al-Dawoody, 2018).

Sixth, it is a legal requirement that prisoners of war not be mistreated or tortured. They cannot be mistreated since their battle was directed against the Muslim community. Islamic Law does not compel us to penalize them for this purpose. One of their rights is the restriction against torturing them, such as making them sit or stand in the sun. For example, the Prophet saw that Bani-Quraizahh had been defeated under the sun and commanded their removal, saying that they should "not associate the heat of the sword and the warmth of the sun." Thus, when it comes to POWs' rights to be free from torture and medical experimentation, Islamic law concurs with IHL, as well as defense against violent crimes, derogatory remarks, and public curiosity.

Seventh, mutilation is highly forbidden. In Islam, mutilation is considered as altering God's creation. For example, the enemy disfigured the corpses of Muslims at the battle of Uhud, including the Prophet's uncle, and the Prophet and his companions pledged to carry out the same atrocity if given the opportunity. But after this, the Prophet forbade treachery and mutilation in return for the revelation of Qur'anic verse

47 about mutilation. Abu Bakr then gave the following injunction, warning them to avoid mutilation as it is a repulsive and sinful deed. Eighth, the right to avoid being made fun of. The pregnant women cannot be touched until after giving birth, and the women who will be taken as concubines cannot be touched until after a menstrual cycle. After that, the master becomes the father. Ninth, the right to not be stripped naked, especially for women, corpses should not be left nude, and the right to be treated with decency, compassion, and respect.

Tenth, equitable treatment with citizens with regard to legal process and rights for resolving complaints: he has the ability to sue anybody and is subject to lawsuits in both civil and criminal cases; the established rules of proof will be applied during his trial, and he is entitled to gather and present evidence. Eleventh, Islamic law permits detainees to communicate with their relatives, particularly in order to support efforts to secure their release or payment of a ransom. Regarding communication and correspondence, Islamic law does not conflict with IHL's viewpoint. In particular, Islamic law does not dispute the International Committee of the Red Cross's (ICRC) position on communication with detainees and their relatives as well as on providing information to the government where the detainee is being held.

Twelfth, captives are entitled to procreate and have children, as well as to marry in order to satiate their innate need. Captives are free to move about, socialize, learn new things, and even impart information. An example of this was the situation with the captives of Badr, who had nothing to offer as redemption and whose family could not afford to show anything. Instead of being released, the hostages were offered the chance to teach ten youngsters the fundamentals of reading. Also, captives are permitted to operate enterprises, and their owners are free to work out an installment plan for their release.

Rights of war prisoners in light of the IHL

According to Vanhullebusch (2007) ^[26], retaliatory tactics against prisoners of war were already prohibited under the 1929 Captives of War Convention. The Third Geneva Convention pertaining to the handling of captives deals comprehensively with the situation of individuals caught as captives in battle, affirming that "captives will at all times be dealt with in a humane way". To Melzer (2008) ^[26], members of one of the combatants' armed forces who are apprehended by the opponent during military confrontation are perceived as war captives. During their captivity, they are still treated and perceived as parties of the armed forces legally, as evidenced by the fact that they are required to return immediately to their home country after hostilities end, that they are still subject to their own majors—who are also captives—and that they are permitted to wear their uniforms. Furthermore, it is stated clearly that the opposing state, as a party to the Geneva Convention, is in charge of executing and implementing its commitment and that captives are not taken by armed groups (Roberts, 1989) ^[32].

In all cases, injured or ill people, including affiliates of the armed services, should be appreciated and given protection. The side to the war in whose hands they may be discovered must treat them humanely and provide for them without making any distinctions based on factors such as gender, ethnicity, nationality, religion, political beliefs, or any other comparable standard. It is definitely forbidden to attempt

their lives or to cause them harm. Specifically, they are not to be killed, annihilated, tortured, the subject of biological experimentation, purposefully abandoned without access to healthcare, or exposed to situations that might spread disease or be infectious (Baxter, 1951) ^[9].

Humanitarian aids in light of Islam and IHL

According to Ali *et al.* (2011) ^[5], one of the cornerstones of the Muslim faith is humanitarianism. Giving money or lending support to someone in need is not a decision that a believer makes on their own; rather, it is a requirement, much like prayer, fasting during Ramadan, and making the trip to Mecca. For Muslims, doing acts of humanitarianism—whether they take the form of giving money or goods in kind or something more pragmatic like providing aid—is an integral part of their religious beliefs. For Krafess (2005) ^[23], the emotional and required components of compassion are inspired, channeled, and amplified by this religious dimension. There are several passages in the Quran and the sayings of the Prophet that define and prescribe humanitarian activity. They either need such work or are of a compulsory nature. Humanitarian action is a means to thank God for his mercies, erase sins, escape punishment, and earn paradise. It is also a means of obtaining assistance from heaven. Islamic law, in contrast to IHL, combines the message and the essence of Islam. The goal of [Islamic] law is to promote peaceful coexistence, both inside and between individuals as well as in society. Because Muslim scholars are obligated to produce modern interpretations of Islamic law to discuss human behavior in changing societal conditions, Islamic law can be tailored to specific situations. The two chief foundations of Islamic law are shari'a and fiqh (Al-Dawoodi, 2021) ^[4].

Conclusion

This paper provided a discussion on the way human rights are observed and addressed in time of military confrontations by both the Islamic law and the IHL. The paper revealed that human rights are clearly addressed by and manifested in Islamic scriptures as well as in the discourse of the IHL. This in turn accentuates the fact that human rights are dexterously communicated, advocated by and observed in Islamic scriptures and in the IHL. This also confirms that human rights were clearly recognized and defended by Islam more than 14th centuries before international humanitarian law was established and formulated. Furthermore, it has been demonstrated in this study that both IHL and Islamic law recognize the enlivening of noncombatant fortification upon the straight involvement of noncombatants in military confrontations based on the observations made about their respective legal systems regarding civilian participation in hostilities. However, comparing the levels of engagement in the two systems is a topic that requires further thought. According to Islamic law, involvement need only pose a genuine risk or raise genuine concerns about damage coming to the military. Islamic law, however, does not fully parallel international law in regards to the repercussions of civilian involvement in battle since, since the early days of Islam, all captives in Islam—whether they directly participate in military confrontations or not—are subject to the same handling under the law of captives. The position of "unlawful belligerent" or "illegal combatant," which is now the focus of considerable discussion in IHL, does not exist.

In summary, Islamic law was established over fourteen hundred years ago, whereas international law is a creation of the previous three centuries. It is also clear that a number of terms, such as the meaning of noncombatants and the idea of "straight involvement in military confrontations," have not been clearly defined under IHL. Islamic law has regulated all the classifications of sheltered individuals in specifics and undoubtedly differentiates between fighters and civilians. When the safety of noncombatants is lost, even the regulations have been imposed. Muslim jurists of today have also developed rules for modern armed conflicts, and these rules can be used as a guide for drafting Islamic humanitarian law (IHL) norms.

Finally, for future research, this study recommends additional wide-ranging discussions on the way both Islamic law and the IHL deal with the issue of human rights in times of military confrontations, by providing detailed discussions on the similarities and differences between the two perspectives. Further studies are also recommended on the various ways present-day military confrontations violate the rules and principles laid down by both the Islamic law (Shari'ah) and the IHL.

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