

Asymmetric Warfare and Implications for selected Conflicts under International Humanitarian Law

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Abstract

Asymmetric warfare depicts a situation of irregular or irrational practice of an act of armed conflict hitherto known to mankind but has become perverted in the course of time and this perversion continues even till today at the expense of mankind. The many States in our modern time are struggling hard to see to it that asymmetric warfare is stopped or somehow regulated even within the global systems such as United Nations Organization and/or regional institutions such as North Atlantic Treaty Organization (NATO), The African Union (AU), Organisation of American States (OAS), European Union (EU), The League of Arab States (Arab League), Asian South East Organization (ASEAN) and a host of others. Asymmetric warfare is an expression describing an act of armed conflict which has gone out of proportion of normal regulation. It has become a situation comparable to a monster. Thus a new armed conflict situation is created with its attendant consequences on modern States such as Iraq, Libya, Yemen, Israel-Palestinian conflict. The nature, development, restructure and regulation of asymmetric warfare are the focus of this paper. The paper concludes that adherence to the original principles of International law as established in the United Nations Charter will enhance regulation and compliance with new rules by all States in the area of asymmetric warfare.

KEYWORDS: Asymmetric Warfare, Armed Conflict, Regulation, Compliance.

Introduction

International Humanitarian Law (IHL) is a unique branch of law that operates principally in times of armed conflict with the sole aim of limiting the use of force or violence. It does this in two ways: a) by sparing the lives of those who do not¹ or no longer directly participate in hostilities² and b) restricting the force or violence to the amount necessary to achieve the aim of the conflict which does not put into account the causes of the conflict which aim is only to weaken the military potential of the enemy which is the other side in the conflict.³ Apart from the principles of International Humanitarian Law seen in this definition such as principles of distinction between soldiers and civilians, principle of proportionality, principle of military necessity, prohibition to attack those hors de combat and prohibition to inflict unnecessary suffering, it also show the challenges of International Humanitarian Law. These challenges include the following:

- i. International Humanitarian Law does not prohibit the use of force or violence. In fact, force or violence is the only language it speaks.⁴
- ii. International Humanitarian Law cannot protect all those who are affected by an armed conflict. This is the case because of the inability by objective natural reason to comply with the principle of distinction. There will be a lot of what is referred to as collateral damage. The conflict cannot always take account of all that happened during armed conflict and therefore cannot possibly protect all.
- iii. The purpose or aim of armed conflict will always be different each time there is armed conflict. Therefore IHL cannot ensure the principle of distinction based on a particular purpose. The act of armed conflict seem to be the same but the aim or purpose are always different.
- iv. IHL does not and probably lack the capacity to bar a party from overcoming the other party usually referred to as the enemy. The essence of war is to use force to overcome the other party because they failed or neglected initially to resolve the problems between the parties by peaceful means in accordance with the UN Charter⁵

Looking at these challenges of IHL, it is evident that allowance to use force or violence coupled with the freedom to overcome the opponent referred to as an enemy, States will always want to stretch their luck to the limit and if need be beyond the limit to win and overcome the enemy. That exactly was what brought about asymmetric warfare. During warfare, the basic rules of IHL are challenged as they are unable to directly handle the problems that are answering to the demands of asymmetric warfare. We shall now look at asymmetric warfare in some States and situations.

War on Terror

There can be little doubt that International Humanitarian Law currently faces a number of challenges. Since the events of 9/11 in 2001, a major war has been in existence for Nineteen years. Now rhapsodized as the War on Terror, the United States of America has ever since that unfaithful incident proclaimed that it is in a state of war with a host of terrorist's organizations. Thence, it has been arguing ever since that it is engaged in a "global war on terror" in which the rules of International Humanitarian law applies.⁶ But it is worthy of note that this legal qualification of the ongoing fight against international terrorism as a war or an armed conflict has been vigorously resisted by many legal scholars and organizations all over the world. Notably, the International Committee of the Red Cross (ICRC) has, among others, remarked that the "war on terror" is legally no more a war than the "war on drugs".⁷ Basically, one of the reasons for the rejection of the advancement of this war by legal organizations and experts alike is that, this war does not tick all the necessary boxes of *jus ad bellum*.⁸ Hence, it is this situation which is present in the case of the War on Terror that has served as the major basis for its illegality.

In 2004, the International Committee of the Red Cross (ICRC) observed that the "global war on terror" must essentially be split into its components, such as the ongoing armed conflicts in Iraq and Afghanistan, and that it is only to these specific armed conflicts, and not to the whole war on terror, can the laws of armed conflict apply.⁹ Whilst many legal arguments and decisions have been made regarding the impact of International Humanitarian law on the war on terror, the past two decade saw the occasioning of two very important judgments which provide some of the most valuable examples of the difficulties surrounding the application of International Humanitarian Law to the scourge of terrorism.

Firstly, in June 2006 the Supreme Court of the United States delivered its decision in the case of *Hamdan v. Rumsfeld*.¹⁰ The fact of this case are that Hamdan, a self-confessed one-time driver and bodyguard of Osama bin Laden was in custody at the United States detention camp at Guantanamo Bay, Cuba. Before this time, in November 2001, during the hostilities between the United States and the Taliban, Hamdan was captured by militia forces and was subsequently turned over to the United States Military. Over a year later, the United States' president deemed him eligible for trial by military commission for then "unspecified crimes".¹¹ After another year had passed, Hamdan was charged with one count of conspiracy to commit offences triable by military commission.¹² As a result of this, Hamdan then proceeded to challenge his trial before a US federal court as to the validity of the military commissions which has set out to try him. After winning before the district court¹³ and losing before the DC Circuit Court of Appeals,¹⁴ Hamdan's case finally came before the Supreme Court of the United States. In this important case, the Court held that the military commissions as set up by the president violated common Article 3 of the four Geneva Conventions of 1949,¹⁵ to which the United States is a party and whose requirements are incorporated into United States' statutes. Also, as an aside, it was further established that these commissions do not provide for those accused before them the minimal judicial guarantees recognized as indispensable by civilized peoples.

Secondly, in December 2006, the Israeli Supreme Court rendered its decision in apropos of the Targeted Killings case.¹⁶ In this case the petitioners, two human rights NGOs, challenged the Israeli

Army's use of the policy of targeted killings and assassinations. That is, it questioned the use of limited military operations with the purpose of killing a specific person, usually a suspected terrorist. In this case, the petitioners claimed that targeted killings are always, without exception, a violation of human rights and humanitarian law. In delivering its decision, the Israeli Supreme Court disagreed with the absolute position forwarded by the petitioners, finding that targeted killings may indeed be lawful under certain restrictive conditions, which it then proceeded to define, drawing heavily on human rights law as the basis for this legality.

Over the years, despite these two conflicting decisions, it should be noted that the war on terror still remains firmly fought by the United States. Unlike at its inception, the basis of controversy has majorly shifted from the legality of the war to the legality of the actions and tactics employed by the United States in fighting this war. Thus, there are varying allegations of the sacred breaches of International Humanitarian law by the United States. Basically, one of the most alleged violated principles of the sacred provisions of international humanitarian law in the war on Terror is the principle of proportionality. Concretely, these allegations have been posited on the reverberating effects of the United States forces in using explosives in civilian areas¹⁷. Essentially, this criticism has also been extended to the aspect of supporting rebels in these states.¹⁸

Basically, it is believed that the War on Terror has caused the deaths of millions of innocent civilians¹⁹, the destruction of the countries in which this wars are fought²⁰ and also the displacement of millions more in the migrant crises²¹. Furthermore, it has also being observed that this war destabilizes several regions whilst also promoting the increase in violence and terrorism in these affected states. And that even despite all this havocs, the war has no end in sight²².

Generally, as it relates to the United States war on terror in Afghanistan, it is clear that the United Nations Charter only allows the use of force in self-defence or on the authorization of the United Nations Security council and in this case on the war on terror, neither criterion was met. Foundationally, it is worth establishing that the Taliban; the foremost terrorist organization in Afghanistan never invaded any part or portion of United States' territory and as such there could have been no justifiable basis for the United States to have advanced a war into the territory of another state on the basis of fighting non-state actors of another state which have not and neither attacked it in any way.

Evidently, the War on Terror is on all fronts a deviation from the sacred principles of International Humanitarian law. Firstly, in blatant violation of the principle of proportionality²³ which forbids military attacks which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof,²⁴ the United States attack on the war on terror has not only being fatal to the so called terrorist organizations, it has also resulted in a mass loss of civilian lives. Thus any war such as this which causes excessive destruction or killings that serve no military purpose or are disproportionate to the relevant good expected to be achieved from it is a clear violation of the sacred principles of proportionality. Also, it should be noted that any war which has no hope of success as in the case of the United States war on terror which has increasingly aggravated violence, conflicts and further worsen the state of terrorism in Afghanistan, Libya and Iraq are a clear violation of this sacred principle.

Thus, having also being defined as a "quasi-consequentialist" principle²⁵, any war such as this which causes more evil than good is disproportionate in all sense. Succinctly, it is clear that another simple proportionality condition is that of measuring the good versus the evil produced by a war. From every point of analysis, the evil which has been manifested in the case of the war on terror does not only outweigh the good, it has ended up in perpetually attempting to eliminate a state of peace in these warzones territory.

Secondly, the configurations are clear that the war on terror is also a needless violation of the principle of distinction. Identified as a basic branch of Customary International Law²⁶, any war

which brings to bear indiscriminate attacks²⁷ be it on the enemy forces or civilian population is in clear contravention of this principle. Closely allied to this establishment, any war which embraces and employs the use of indiscriminate weapons and warfare is an infraction of this cardinal principle of International Humanitarian Law²⁸. In this regard, not only has the White House admitted its agenda to seek regime change in Syria²⁹, it has also publicly acknowledged its support for rebels in Syria righting the government. All of which innately exposes the illegality and criminality of this war under International Humanitarian Law.

Israel-Palestine Conflict.

The Palestinian-Israeli conflict is one of the longest-running asymmetrical wars in the world. This conflict between Israel and Palestine has a history of more than half a century³⁰. Historically, the Jewish population who migrated to the land of Israel and later declared its independence as a State in 1948 based their actions on the expiring British Mandate and the United Nations resolution on the Partition Plan of Palestine³¹. As a result of this declaration of independence by Israel in 1948, a state of war was triggered by the Arab countries against Israel. Consequently, this war resulted in Israel's occupation of the West Bank including East Jerusalem, the Gaza Strip, the Syrian Golan Heights and the Egyptian Sinai Peninsula³². Condemning this occupation, the United Nations Security Council adopted the landmark resolution 242 which called for the "[w]ithdrawal of Israel armed forces from territories occupied in the recent conflict" and recognizing "respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area"³³. Although the occupation and conflict continued for many years, in 1993, Israel and the Palestine Liberation Organization signed the Declaration of Principles on Interim Self-Government Arrangements popularly referred to as the Oslo Accord, which recognized the mutual, legitimate and political rights of both states and also stipulated Israel's disengagement from the Gaza Strip. But as against the spirit of this accord, the withdrawal was not implemented until the collapse of the Oslo peace process. Thus, ever since, there has been an intermittent state of war between these two nations.

As earlier established, the case of Israeli-Palestinian conflict is largely asymmetrical as neither Hamas nor Palestine has the military force and strength of Israel. To add insult to this injury, on July 8, 2014, the Israel Defence Forces announced that they had launched "Operation Protective Edge," a military intervention into the Gaza territory. The force stated that the goals of Protective Edge were "aimed to retrieve stability to the residents of southern Israel, eliminate Hamas' capabilities and destroy terror infrastructure operating against the State of Israel and its civilians."³⁴ Less than two months later, at least 2,131 Palestinians had been reported killed, 1,473 of whom were civilians and 501 children.³⁵

As earlier observed, the Principle of Distinction is a well-settled tenet of the *jus in bello* branch of customary international law. Thus, it is no novel establishment that unless civilians take up arms and thus become combatants during hostilities; they are to be afforded full protection against attacks. This rule which provides for the protection of the civilian population during hostilities has a root foundation in the letters of Article 48 of Additional Protocol I to the Geneva Conventions, which states that "In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives"³⁶. As against this basic principle, such attack resulting into the death of the civilian population of Palestine by the Israeli forces can be said to be a blatant violation of this principle. But this violation cannot be fully and rigidly established until we take a critical look at the workings of the enemy forces.

On a just analysis, the nature and means by which Hamas fights with Israel is not only a clear

violation of International Humanitarian law, but also can be attributed as a major contributing rationale to the attack on the civilian population. This is because only does this group employ guerrilla tactics in their battles, it has also been recorded that they sometimes build intricate tunnel systems which allows them to enter Israel unnoticed³⁷. But this is not the basis of the attempted establishment of Israel's non violation of the principles of International humanitarian law, but rather the attack on the civilian population by Israel has been attributed to the inability to identify and convincingly distinguish between the Hamas armed forces and the civilian population since they don't wear uniforms neither do they possess any distinctive means of identity³⁸. Thence, it is these features which have therefore contributed to the difficulty in effectively applying the Principle of Distinction as it regards the attack of Israel on the civilian population of Palestine.. Also, it is worth noticing that Militant Palestinian organizations have also killed thousands of civilians in Israel and the occupied territories³⁹. Although specific policies of the various groups differ, the major armed groups share a willingness to target civilians in pursuit of their goals.

Without doubt, conducting an individual attack in a disproportionate manner is contrary to customary international humanitarian law rules provided for under Article 51(5) (b) of Additional Protocol I, which states that:

Among others, the following types of attacks are to be considered as indiscriminate:

(a) [A]n attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.⁴⁰

Plainly, this provision is allied to the provision of Article 51(6) of the same protocol which provides that “Attack against the civilian populations by way of reprisal are prohibited”

Not only this, a critical examination of Article 57 specifically the provisions of (1) and (2) establishes that

1. In the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects

2. With respect to attacks, the following precautions shall be taken,

(a) Those who plan or decide upon an attack shall:

i) Do everything feasible to verify that the objectives to be attacked are neither civilian nor civilian objects and are not subjected to special protection but are military objectives within the meaning of paragraph 2 of Article 52 and that it is not prohibited by the provision of this protocol to attack them;

ii) Take all feasible precaution in the choice of means and method of attack with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects;

iii) Refrain from deciding to launch any attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated

Having in consideration these provisions as well as those of Article 57(2) (c) which provides that “effective advance warning shall be given of attacks which may affect the civilian population, unless circumstances do not permit”, it can be argued that it might be difficult to determine the culpability of Israel until the facts are fully and critically analysed.

That is, whilst any indiscriminate attack on the civilian population are a clear violation of the *jus in bello* standard as it relates to attacks within the framework of an already existing conflict, it is quite difficult to decide the ultimate culpability of Israel having in consideration the nature and manner by which Hamas often conducts its attack. That is, the actions of Israel might not be really declared as an infraction of this sacred principle, noting fully well the facts that in certain circumstances, it is

usually hard to decide which a civilian population is and Hamas since the latter are usually not with an identifiable uniform neither do they possess a distinctive means of identity. Thus, whilst this war is really asymmetrical on all fronts, the culpability of Israel with regards to this alleged infraction is basically a question of facts and not of speculations which will have to be decided premised on the relevant available evidences.

IV. Syrian Civil War.

Humanity has been undergoing a trial of blood and fire in Syria since 2011. Overtime, this conflict has exhibited all possible guises of war, this includes, civil war, proxy war, siege warfare, cyber-warfare and even the war against terror⁴¹. That is, virtually all forms of human warfare seem to converge in one conflict. Distastefully, these many violent acts in the Syrian war continue unabated, even after the effort by the United States and Russia to facilitate a partial ceasefire in 2016.⁴²

Dishearteningly, there have been a myriad of International Humanitarian law violations in this war. As at 2019, the United Nations Special Envoy for Syria estimated that more than 300,000 persons had been killed during this hostility⁴³. Even more embittering, many of these deaths have reportedly been the result of war crimes, such as indiscriminate attacks, disproportionate civilian harm, targeting of medical facilities and even murder⁴⁴. As though these were not enough, atrocities such as systematic rape, torture, persecution and inhumane acts have been widely documented and reported in this war⁴⁵. It is worthy of note that such an extensive and disproportionate use of lethal force against the demonstrators resulted in certain opposition groups arming themselves, and in June 2011, the Free Syrian Army, composed of defectors from the army, was created. In clear violation of the sacred principles of International Humanitarian law, shortly after the creation of this group, the government soon began to strike residential areas perceived to be under the control of opposition groups with all sorts of fatal attacks.⁴⁷

Solidly, it is no news that the havoc resulting from this war alone is highly horrific. In the wake of this crisis, there has been a mass displacement of more than 13.5 million persons who are in need of humanitarian assistance, more than 5 million refugees, 6 million internally displaced people and 4.5 million people trapped in besieged and hard-to-reach areas⁴⁸. Even more catastrophically, there have been massive reports of the use of chemical weapon in this war, an issue that has aroused great international concern and also condemnation⁴⁹. Whilst the allegation in relation to the usage of chemical weapons in the Syria war began in 2012, up to this time, the Syrian government has provided no concrete information about its chemical weapons capability.

In early 2012 the International Committee of the Red Cross (ICRC) qualified the violence in Syria as a non-international armed conflict, thus determining the applicability of international humanitarian law norms⁵⁰. In 2015, the situation on ground became even more heinous. Against the backdrop of the crisis in Yemen and Iraq, the polarisation of regional actors intensified. Whilst, extremist groups, such as ISIS and Jabhat al-Nusra, gained more and more ground, consolidating their strongholds and imposing extreme Islamist law in the areas under their direct control, external powers and international coalitions intervened on the ground with heavy operations, causing a multiplication of frontline battles and civilian casualties.

According to manifold reports, all actors involved in this war have deliberately targeted civilians⁵¹. This includes all sorts of deliberate attacks against the civilian population, protected objects and hors de combat fighters; imposition of ferocious sieges and blockades; restriction of humanitarian access; use of chemical weapons and incendiary shells, cluster munitions, antipersonnel landmines; unlawful use of indiscriminate weapons in densely populated areas or even directly against civilian objects; terror and starvation; among many others means in which these war have

been used as an instrument of unthinkable terror.

As an important aside, it must essentially be stated that due to the direct and indirect intervention of external powers in this war, the internationalised character of this conflict is unquestionable. Even if such is questioned and the war is characterized as internal, there is no doubt that Common Article 3 to the Four Geneva Conventions and customary international humanitarian law would still be applicable. Solidly, it is also important to establish that every armed group in this war bears the obligation to respect international humanitarian law norms, regardless of the compliance or violation shown by the other actors, since such obligation does not depend on reciprocity.

To begin with, the sacred principle of distinction has been clearly violated in this hostility. This principle which establishes that military attacks should not be directed against civilians or civilian objects, but only against combatants who might include members of regular armed forces or of armed groups participating in military operations have been incessantly violated at different times. Thus, deliberate attacks against civilians have been carried out by all parties involved in this war. As a classic example of this violation, all sorts of barrel bombs have been observed to have been dropped by government forces on markets, schools, medical facilities and squares. Even more embittering, in order to maximise deaths and injuries, often a second round of bombs is dropped on those gathered to assist the injured⁵². To establish the deliberateness of this attack, most of the incidents investigated by the International Commission of Inquiry on the Syrian Arab Republic and Human Rights Watch provided no flavour of evidence of the presence of military targets in these attacks⁵³.

To fully establish the disproportionality of this war, it is interesting to note that the use of force in Syria does not have any just cause whatsoever under international law. In blatant breach of the principle of proportionality, arms-support by different foreign governments to rebels has increased violence and terrorism in Syria. Whilst the earlier establishment of the experiences in Afghanistan and Iraq are sufficient to prove the foreseeability of this increase in violence, it should be noted that such was done with the sole aim of causing horrific injury and harm to the civilian population and the country at large. No matter how slight, no good whatsoever has been achieved in Syria. From the deaths of civilians to damage to infrastructure, and also the destabilization of the region are apparently serious harms with no benefit whatsoever. Moreover, the support to rebels, the regime change agenda, and the targeting of the government are also in excess of the direct military objectives demanded by the principle of proportionality. Therefore, it can be rightly concluded that because the harms caused were reasonably foreseeable, and because they outweighed any good achieved, the Syrian civil war is disproportionate in every sense.

Furthermore, the principle of military necessity which is another essential principle of International Humanitarian law has also been blatantly disregarded and defiled in this war. Indisputably, the crux of this principle is that of permitting only measures which are necessary to accomplish a legitimate military purpose and are not otherwise prohibited by International humanitarian Law. Thus, the principle indicates that any type or degree of force is used only if it is indispensable in the accomplishment of a reasonable military objective. That is, to weaken the military capacity of the other parties to the conflict alone⁵⁴. As against this principles, parties to the Syrian war has overtime continued to use forces which are needless and unnecessary in weakening opponents and enemies alike. Thus, they have manifested massive misuse of force in such a way as to wreck destructive and highly catastrophic injuries and damages at all times, thus resulting in a clear violation of the sacred principles of International Humanitarian law.

Yemen Armed Conflict

From recourse to records, the Yemeni government and the Houthis have been in an armed conflict since 2004⁵⁵. Identifiably, the Houthis are a group of non-state actors established in 1990, with the aim of gaining political power in the country and eradicating the Saudi-backed Salafi influence in

the region⁵⁶. Thus, after the Arab Spring hit Yemen in 2011, the Houthis rebellion gained a stronghold and initiated months-long protests against the government in the name of fighting corruption and the U.S.-backed dictator. In the end, they succeeded in forcing the president out of office and the government was then handed over to Abdrabbuh Mansour Hadi, who was elected president in the 2012 election⁵⁷. Ever since the this change of government, there has been manifestations of different horrific catastrophe in this region.⁵⁸ Thus, from 2012 to 2014 alone, Yemen faced intense political instability due to widespread protests against fuel prices in the Houthi stronghold regions.⁵⁹

Not only this, within a month, the Houthis took over the president's residence and forced him to resign. They announced their assumption of power in Yemen after gaining control of the armed forces, fighter planes, and ammunition in 2014⁶⁰. In March 2015, President Hadi moved to the city of Aden and declared it the new capital in the hope of regaining control. However, when the country faced major protests on both sides, President Hadi fled to Saudi Arabia and invited neighbouring countries to intervene by force⁶¹. As a result, a nine-member coalition, comprising Saudi Arabia, the United Arab Emirates (UAE), Bahrain, Egypt, Jordan, Kuwait, Morocco, Qatar, and Sudan, commenced Operation Decisive Storm⁶², which initiated armed conflict between the Saudi-led coalition and the Houthis. In April 2015, the United Nations Security Council adopted Resolution 2216 and recognized President Hadi as the legitimate president of Yemen. In 2017, Operation Golden Arrow was initiated by the Saudi-led coalition to cut off Houthi supply lines.⁶³

But this development only succeeded in worsening the situation. In 2016, the Houthis took control of missiles when they took over the capital city of Sana'a. Since then, they have been firing these missiles into the sovereign territory of Saudi Arabia. In November 2017, when the Houthis fired longer-range Burkan-2H missiles targeting the populated cities of Saudi Arabia, the U.S. concluded that the missiles used had Iranian technology⁶⁴. Since the Houthis had not used such technology before this incident, the U.S. concluded that Iran had supported the Houthis. The UN acknowledged that the missiles had a technology similar to that possessed by Iran, and that it is probable that they had been manufactured abroad⁶⁵. Saudi Arabia has also successfully intercepted a missile fired by the Houthis that was targeted to destroy Makkah, which is the holiest place for Muslims worldwide.

In addition, the Houthis continued to use lethal force against protesters, while also using civilians as human shields⁶⁶. Not only this, they have continue to capture, torture, and murder hostages, bombed and shelled civilians including children, kidnapped journalists among many other horrific catastrophes. To add insult to this injury, the Houthis ever since capturing coastlines have been targeting foreign ships, endangering maritime security, and have fired more than 100 missiles in the sovereign territory of Saudi Arabia.⁶⁷ In sum, they have destroyed Yemen by initiating and conducting civil war against their own state, overthrown a government in a coup, taken over the capital.

On a just appraisal, it must be said that in the conduct of this warfare, the Houthis had and have continued to violate the sacred provisions of international humanitarian Law. Thus, not only have they been using explosives materials and ammunitions in the conduct of this war, they have incessantly launched attacks on civilian areas which eventually result into massive deaths of civilian lives. Clearly, all these are a clear violation of the sacred principle of distinction and proportionality.

With regards to the violation of the principle of distinction, it is worth noticing that not only was the harm done to the civilian population disproportionate to the military gains; they were by every strand indiscriminate in their attacks. This is because they specifically targeted civilian residential areas, while deliberately intending to destroy civilian housing. Even in certain circumstances, the Houthis forces have launched indiscriminate attacks by targeting residential buildings and

hospitals.⁶⁸ Concretely, all these attacks are a clear violation of the sacred provisions of Article 48 of the Additional Protocol 1 as well as Article 52, 53 and 16 of the Additional protocol II which provides that civilian objects such as hospitals, schools, civilian buildings, and houses should not be directly targeted, unless they are used for military or hostile purposes during an armed conflict. In this particular situation, there has been no record whatsoever that these buildings are used for military or hostile purposes. Thence, all of these attacks are a violation of the sacred rules of International Humanitarian Law

Concretely, it is essential to state that the manner of attack which is employed by the Houthis is also a clear violation of the rules of Article 51(1) of the Additional Protocol I which provides that

The civilian population and individual civilians shall enjoy general protection against dangers arising from military operations.

Thus, such attacks on hospitals, mosques and civilian areas are a blatant breach of these sacred provisions of International Humanitarian Law. Ultimately, with regards to the principle of proportionality, it is worth establishing that not only have all these attacks launched by the Houthis resulted in incidental loss of life of the civilian population and objects, those attacks have also been excessive in relation to the concrete and direct military advantage needed to weaken the enemy forces, thus resulting into a breach of International Humanitarian Law.

Conclusion

Our study has shown that asymmetric warfare may have some advantages in resolving conflict situations in manner that seem to be fast but the consequences are always enormous on the other side referred to as the enemy. We have also observed that the so called enemy in most cases is the weaker side who always has some residual strength to continue the fight despite its weaker position. We saw Israel after many years of unleashing terror on the territory of Palestine still consider it expedient to enter into peace agreement with it.

It was equally observed that weaker side in asymmetric warfare often lacks the necessary structures of hierarchy, authority and processes of accountability all of which are needed for the enforcement of International Humanitarian Law. Where this enforcement is not seen or felt the promises of compliance of IHL for the benefit of all will seem to be an illusion. With these many distasteful realities, it is safe to conclude that International Humanitarian law is currently faced with torrents of chronic challenges which must therefore be addressed without further delay before the catastrophe of unregulated armed conflicts deliver humanity to the door of her own destruction. IHL as an International Law should be based on the principles of love, peace, humanity, friendly relations, unity, independence and universality. The way forward will be the charting of new way in managing human relations by practicing the principle of all-inclusiveness so as to view the law and practice of IHL from the same perspective thereby giving everyone the same result. The present arrangement of winner takes all even with the use of asymmetric warfare should be redressed. Asymmetric warfare needed to be better regulated than what it is now. The provisions of IHL as presently constituted cannot regulate the actions being taken under asymmetric warfare. Terrorism and some new trends in armed conflict exhibit practices that are not provided for by the Conventions, Protocols and other instruments. Hence a new trend of instruments applicable towards regulating asymmetric warfare measures and mechanisms should urgently be deployed to save mankind from self-destruction.

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