
RESEARCH PAPER

International Humanitarian Law and the Conflict in Gaza: A Legal Appraisal of Proportionality and Civilian Protection

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ABSTRACT

The ongoing conflict in Gaza underscores critical challenges in the application and enforcement of International Humanitarian Law (IHL), particularly the principles of proportionality and civilian protection. This research investigates the extent to which these core IHL principles are upheld or violated during the hostilities between Israeli military forces and Palestinian armed groups. The study adopts a doctrinal legal research methodology, analysing relevant treaty law—including the Geneva Conventions and Additional Protocols—customary international law, and reports from international bodies and human rights organizations. It also examines case studies from recent military operations in Gaza, such as Operation Protective Edge (2014) and the October 2023 escalation, to evaluate compliance with IHL norms. The key findings reveal a pattern of conduct by both state and non-state actors that often breaches the proportionality rule and disregards civilian protection, raising serious legal and ethical concerns. The article further explores the limitations of current accountability mechanisms and enforcement tools, particularly within asymmetrical conflict dynamics. It concludes that while IHL provides a strong normative framework, its effectiveness in the Gaza context is undermined by political resistance, lack of credible enforcement, and the complexities of modern urban warfare. Strengthening civilian protection requires both legal reform and sustained international engagement. The recurrent hostilities in Gaza have underscored profound legal and moral concerns about compliance with IHL, particularly the principles of proportionality and civilian protection. This article examines the legal obligations of parties under IHL, evaluates the application and potential breaches of these norms in the context of the Gaza conflict, and explores the challenges of enforcing IHL in asymmetrical warfare settings. It further assesses the role of international mechanisms in ensuring accountability and the prospects for a more robust legal regime to safeguard civilians.

Keywords: Asymmetrical warfare, Customary international law, Civilian casualties, non-state armed groups, Urban conflict zones, Military necessity, international accountability.

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INTRODUCTION

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The enduring and cyclical nature of the armed conflict in Gaza continues to raise pressing concerns within the international legal community, particularly regarding the treatment of civilians during hostilities. While IHL establishes a legal framework to govern armed conflict and limit human suffering, its practical application in asymmetrical warfare—where state and non-state actors are pitted against each other—is fraught with complexities. The recent escalations in Gaza, particularly the widespread destruction of civilian infrastructure and the high rate of non-combatant casualties, bring into sharp focus the principles of proportionality and civilian protection under IHL. This research explores whether the conduct of parties engaged in the Gaza conflict aligns with established IHL norms, specifically the obligations to avoid disproportionate attacks and to protect civilians from the effects of hostilities. The hypothesis underpinning this study is that, despite the legal clarity of these obligations, both state and non-state actors routinely fail to comply with IHL due to strategic, political, and operational factors. The study adopts a doctrinal legal research methodology, drawing on primary legal instruments (e.g., the Geneva Conventions and Additional Protocols), customary international law, reports from UN agencies, human rights NGOs, and legal scholarship. Select case studies from the 2014 and 2023 escalations are used to illustrate practical violations and interpretative challenges (Bidali, 2016).

The significance of this research lies in its potential to contribute to both legal scholarship and policy discourse by critically assessing the effectiveness of IHL in contemporary conflicts. It further examines whether current mechanisms for accountability—such as investigations by international bodies and judicial proceedings under the International Criminal Court (ICC) are sufficient to deter violations and uphold the protection of civilians. The article is structured as follows: Section two outlines the theoretical and legal framework of IHL, with a focus on the principles of proportionality and civilian immunity. Section three examines the unique challenges posed by asymmetrical warfare in the context of Gaza. Section four evaluates case-specific applications and potential violations of proportionality. Section five scrutinizes allegations of indiscriminate and deliberate attacks on civilians. Section six discusses the limitations of international accountability and enforcement mechanisms. Finally, Section seven proposes legal and institutional reforms aimed at strengthening compliance and ensuring more effective civilian protection. The protracted conflict in Gaza, marked by recurrent escalations between Israeli military forces and Palestinian armed groups, has resulted in significant civilian casualties and destruction of infrastructure. Amid rising international concern, this article undertakes a critical legal assessment of how IHL governs conduct during hostilities, focusing on the principles of proportionality and civilian protection. The conflict serves as a poignant case study to analyze the efficacy and limitations of IHL in modern warfare, particularly in asymmetrical contexts.

RESEARCH METHODOLOGY

This study employs a qualitative doctrinal research methodology, focused on the systematic analysis of legal texts, case law, international reports, and scholarly literature to investigate the application of IHL principles—particularly proportionality and civilian protection—in the Gaza conflict. The research begins with a comprehensive literature review of primary and secondary sources, including international treaties such as the Geneva Conventions and their Additional Protocols, United Nations resolutions, reports from international bodies (e.g.,

UN Human Rights Council, ICC, and analyses by human rights organizations (e.g., Amnesty International, Human Rights Watch). This selection was made to ensure authoritative and diverse perspectives on legal standards and their practical enforcement. Next, the study applies legal-analytical techniques to interpret key IHL concepts—distinction, proportionality, precaution, and humanity—and assess their relevance and challenges in the context of asymmetrical urban warfare as exemplified by the Gaza conflict. This involves critical examination of reported incidents, military doctrines, and official statements to identify patterns of compliance and violation. Given the political sensitivity and complexity of the conflict, the methodology emphasizes cross-referencing multiple sources to mitigate bias and enhance the validity of findings. Comparative analysis is used to contextualize Gaza within broader trends in modern warfare, drawing parallels with similar conflicts to highlight common legal dilemmas. The study refrains from empirical data collection such as interviews or fieldwork due to access limitations and security concerns. Instead, it relies on publicly available and verified documents to construct a robust, evidence-based legal appraisal. This methodological approach enables a nuanced understanding of both normative legal frameworks and operational realities, providing insights into the gaps between law and practice. It also supports recommendations for strengthening civilian protection and accountability under IHL in contemporary conflicts.

FRAMEWORK OF INTERNATIONAL HUMANITARIAN LAW

IHL, also known as the law of armed conflict or the law of war, is a body of rules that governs the conduct of hostilities and seeks to mitigate human suffering during armed conflicts. Its central purpose is to protect persons who are not or are no longer participating in hostilities—particularly civilians—and to regulate the means and methods of warfare. The legal framework of IHL is grounded in both treaty law and customary international law, binding on all parties to a conflict, whether state or non-state actors. The foundational treaties of IHL are the Geneva Conventions of 1949 and their Additional Protocols of 1977, which articulate obligations concerning the treatment of civilians, prisoners of war, and the wounded. While Israel is a party to the Geneva Conventions, it has not ratified Additional Protocol I, which applies to international armed conflicts. Nonetheless, many of its provisions are considered part of customary international law and thus binding irrespective of ratification (Abdullahi, 2024).

Distinction

The principle of distinction is a cornerstone of IHL and serves as the primary safeguard for civilian populations during armed conflict. Enshrined in Article 48 of Additional Protocol I to the Geneva Conventions, this rule obligates parties to a conflict to always distinguish between civilians and combatants, as well as between civilian objects and military objectives. Only military objectives may be lawfully targeted, and any deliberate or indiscriminate attack against civilians or civilian infrastructure constitutes a violation of IHL and may amount to a war crime under the Rome Statute of the ICC (Article 8). This principle is further elaborated in Articles 51 and 52 of Additional Protocol I, which prohibit attacks that are indiscriminate in nature, meaning those that are not directed at a specific military objective or that employ a method or means of combat that cannot be directed at a specific military target. It also prohibits attacks expected to strike military targets and civilians without distinction. In the context of the Gaza conflict, the application of this

principle is fraught with difficulties. Israeli forces have justified strikes on civilian areas by citing the alleged use of such areas by Palestinian armed groups for military purposes, such as weapons storage or rocket launching. Conversely, Palestinian militant factions, including Hamas and Islamic Jihad, have been widely condemned for launching indiscriminate rocket attacks into Israeli civilian areas, which inherently violate the principle of distinction due to their imprecision (Kels, 2024).

The urban and densely populated environment of Gaza further complicates the implementation of this principle. The presence of fighters within civilian buildings, hospitals, and schools' challenges conventional targeting procedures and blurs the lines between military and civilian zones. However, the mere presence of combatants within civilian areas does not absolve the attacking party from its obligation to distinguish and to take feasible precautions to minimize harm to civilians. Violations of the distinction principle have been documented in numerous UN reports and by international human rights organizations. These include targeted strikes on residential buildings, marketplaces, and medical facilities without sufficient evidence that these sites constituted legitimate military objectives. Such incidents raise significant legal concerns and suggest potential breaches of IHL obligations by both parties to the conflict. Thus, the principle of distinction remains central to legal and ethical assessments of military conduct in Gaza, and its repeated violation underscores the urgent need for stricter compliance and clearer accountability mechanisms. Parties to a conflict must always distinguish between combatants and civilians, as well as between military objectives and civilian objects. Attacks may only be directed against legitimate military targets (Article 48, Additional Protocol I) (Nakhle, 2021).

Proportionality

The principle of proportionality is a fundamental rule of IHL that seeks to balance military necessity with humanitarian considerations. It does not prohibit attacks that cause incidental civilian harm, but it strictly prohibits those where the expected civilian damage is excessive in relation to the anticipated concrete and direct military advantage. This principle is codified in Article 51(5)(b) of Additional Protocol I to the Geneva Conventions and is also recognized as a norm of customary international law applicable in both international and non-international armed conflicts. Proportionality assessments are inherently context-specific and require military planners to weigh the anticipated military gain of an operation against the expected incidental harm to civilians and civilian objects. Importantly, the assessment must be made in good faith and in real-time, based on the information reasonably available to commanders at the moment of attack. In practice, the application of proportionality becomes particularly contentious in urban warfare and asymmetrical conflicts—as seen in Gaza—where military objectives are often located near or within civilian areas. Israeli military operations have been widely scrutinized for alleged disproportionate attacks, particularly in densely populated zones where airstrikes on suspected militant targets have resulted in high civilian casualties. For example, during Operation Protective Edge (2014) and the October 2023 escalation, reports by the United Nations and international human rights organizations documented large-scale destruction of residential buildings, schools, and hospitals. In many cases, the military advantage gained from the attack was unclear or appeared minor relative to the scale of civilian harm inflicted (Feinstein, 2009).

At the same time, Palestinian armed groups have also violated the proportionality principle by firing unguided rockets into Israeli civilian areas. While these attacks lack the sophistication to assess proportionality in the conventional sense, their inherently indiscriminate nature and failure to target legitimate military objectives render them unlawful under IHL. A critical challenge in applying the proportionality principle lies in the subjectivity of determining what constitutes “excessive” harm. Legal scholars and courts, such as the International Criminal Tribunal for the Former Yugoslavia (ICTY), have recognized that military advantage must be concrete and direct—not speculative or strategic in a long-term sense (*Prosecutor v. Kupreškić*, ICTY, 2000). Moreover, military advantage cannot be retroactively justified; it must be evident at the time of planning and executing the attack. The repeated and arguably disproportionate use of force in Gaza underscores the inadequacy of existing mechanisms to evaluate or enforce proportionality standards. Without independent investigations and legal accountability, the principle remains vulnerable to political manipulation and selective interpretation. While the proportionality rule remains central to protecting civilians during armed conflict, its practical application in Gaza reveals significant gaps in compliance, oversight, and enforcement. These deficiencies not only erode the protective function of IHL but also perpetuate cycles of violence without legal consequence. Even when attacking lawful military targets, belligerents must ensure that incidental harm to civilians or civilian property is not excessive in relation to the anticipated concrete and direct military advantage (Article 51(5)(b), Additional Protocol I) (Dannenbaum & Dill, 2024).

Precaution

The principle of precaution in IHL imposes an affirmative duty on all parties to an armed conflict to take all feasible measures to avoid, or at least minimize, incidental harm to civilians and civilian objects during military operations. This principle is codified in Articles 57 and 58 of Additional Protocol I to the Geneva Conventions and is recognized as part of customary international law, binding on both state and non-state actors in all forms of conflict. Under Article 57(1), those who plan or decide upon attacks must: Do everything feasible to verify that the objectives to be attacked are neither civilians nor civilian objects. Choose means and methods of attack with a view to avoiding, or at least minimizing, incidental loss of civilian life and damage to civilian objects. Refrain from launching attacks that may be expected to cause disproportionate harm in relation to the anticipated military advantage. Furthermore, Article 58 requires parties to take feasible steps to protect civilians under their control from the effects of hostilities, including by avoiding the location of military objectives within or near densely populated areas (Dannenbaum & Dill, 2024).

In the Gaza conflict, both parties have been accused of failing to uphold these obligations. The Israeli Defense Forces (IDF) claim to conduct advanced warning operations, such as “roof knocking” and issuing evacuation notices via SMS or leaflets. However, the effectiveness and adequacy of these warnings have been disputed by humanitarian observers and legal experts, particularly where civilians have had insufficient time, means, or safe routes to evacuate, or when warnings preceded strikes on buildings housing large numbers of families. Moreover, reports by the United Nations Independent International Commission of Inquiry have noted incidents where the IDF failed to distinguish adequately between military and civilian presence, raising concerns about the sufficiency of precautionary measures. For example, strikes on apartment blocks and

schools being used as shelters have resulted in significant civilian casualties, despite claims of prior warnings. On the other hand, Palestinian armed groups, including Hamas and Islamic Jihad, have been widely criticized for placing military assets in or near civilian infrastructure, such as homes, hospitals, and mosques—conduct that not only violates the obligation under Article 58 but also endangers civilians by turning them into de facto human shields. This practice complicates the task of taking effective precautions and further blurs the line between military and civilian objects, often to the detriment of civilian protection. The principle of precaution thus demands a proactive and ongoing assessment of targeting decisions and operational conduct. Its purpose is not merely to avoid liability after the fact, but to actively prioritize civilian safety in the planning and execution of military operations. In the case of Gaza, repeated failures to adequately implement precautionary measures underscore broader issues of accountability, operational culture, and the limitations of legal enforcement mechanisms in high-intensity, asymmetrical urban warfare. All feasible precautions must be taken to avoid or minimize incidental civilian harm. This includes choosing means and methods of warfare that reduce the risk to civilian life and infrastructure (Articles 57 and 58, Additional Protocol I) (Neuman, 2004).

Humanity and the Prohibition of Unnecessary Suffering

The principle of humanity, alongside the prohibition of unnecessary suffering or superfluous injury, lies at the moral and legal core of IHL. Rooted in the Martens Clause, first introduced in the Preamble to the 1899 Hague Convention II and later incorporated into the Geneva Conventions and Additional Protocols, this principle serves as a fundamental safeguard when specific legal provisions may not adequately cover emerging technologies or tactics in warfare. Under Article 35(2) of Additional Protocol I, parties to a conflict are prohibited from employing means or methods of warfare that are of a nature to cause superfluous injury or unnecessary suffering. This principle, deeply embedded in customary international law, is also reflected in the prohibitions against certain weapons and tactics that are considered excessively cruel or indiscriminate, including biological weapons, chemical agents, and certain forms of incendiary or fragmentation devices. The principle of humanity demands that all parties to a conflict conduct military operations in a manner that respects the dignity, physical integrity, and mental well-being of both combatants and civilians. It prohibits any act that inflicts suffering not justified by a legitimate military objective. This includes mutilation, torture, inhumane treatment, and attacks that inflict gratuitous or disproportionate harm (Barnidge, 2011).

In the context of the Gaza conflict, numerous practices have been scrutinized for potentially violating this principle. Reports by UN agencies, human rights organizations, and independent fact-finding missions have highlighted the use of heavy explosive munitions in densely populated areas, resulting in severe civilian casualties and long-term psychological trauma. The widespread destruction of essential infrastructure—such as hospitals, water systems, and schools—has not only led to immediate suffering but also prolonged humanitarian crises, disproportionately affecting vulnerable populations. Moreover, the psychological impact of sustained bombardment, particularly on children and families, raises critical questions about the proportionality of such suffering in light of the military objectives achieved. On the other side, Palestinian armed groups have engaged in tactics that also raise concerns under this principle, including the launching of

rockets from civilian areas, thereby exposing non-combatants to retaliatory strikes and undermining their own obligations to safeguard civilians. The principle of humanity functions as a moral compass in situations where the law may be silent or ambiguous, reinforcing the idea that warfare must always remain within the bounds of basic human dignity. It also strengthens interpretive guidance for other core principles such as distinction, proportionality, and precaution, serving as a litmus test for humane conduct in armed conflict (Nayef Alakash et al., 2024).

In Gaza, the apparent disregard for this principle by both state and non-state actors demonstrates the erosion of ethical restraints in warfare and the pressing need for stronger enforcement mechanisms, clearer operational guidelines, and sustained international pressure to ensure compliance with IHL. Parties must refrain from causing superfluous injury or unnecessary suffering. The use of certain weapons and tactics that cause excessive harm or are indiscriminate in nature is prohibited under this principle. These principles are not only codified in treaty law but also affirmed in the jurisprudence of international courts, including the ICTY and the ICC. Moreover, the International Committee of the Red Cross (ICRC) has identified these principles as forming part of customary international law, applicable in both international and non-international armed conflicts. Importantly, IHL is designed to be neutral and applies irrespective of the causes or legitimacy of the conflict. This ensures that all parties are held to the same standards concerning the protection of civilians and the conduct of hostilities. In the context of the Gaza conflict, this framework provides a benchmark for evaluating military operations carried out by both Israeli forces and Palestinian armed groups. The subsequent sections will assess whether these actors have adhered to or violated IHL principles, particularly with respect to proportionality and the protection of civilians in densely populated urban environments (Igiraneza, 2024).

THE GAZA CONFLICT AND THE CHALLENGE OF ASYMMETRICAL WARFARE

The Gaza conflict presents one of the most complex and protracted examples of asymmetrical warfare in modern international relations. Asymmetrical warfare refers to conflict between parties of significantly unequal military capabilities, resources, and strategic doctrines—typically between a conventional state military and non-state armed groups. This imbalance complicates the application and enforcement of IHL, particularly regarding targeting, proportionality, and civilian protection. In the case of Gaza, the conflict involves Israel, a technologically advanced state actor with a formal military hierarchy, and Palestinian armed groups, such as Hamas and Palestinian Islamic Jihad, which operate with less conventional structure and often from within civilian areas. This asymmetry manifests not only in the military capacity of the parties but also in their operational environments, rules of engagement, and approaches to legal compliance (Cohen & Zlotogorski, 2021).

Operational Realities and Legal Dilemmas

The Gaza conflict is emblematic of the complex operational environment in which IHL must be applied amid asymmetrical warfare. Israeli military operations take place in a densely populated urban area where civilian and military entities frequently coexist in close proximity. Palestinian armed groups often operate within civilian infrastructure, including residential buildings, schools, hospitals, and mosques, thereby creating a highly challenging context for

compliance with IHL principles such as distinction and precaution. From the Israeli perspective, militants' use of civilian areas for military purposes complicates targeting decisions, increasing the risk of civilian casualties and property damage. Israeli forces contend that such use effectively militarizes civilian spaces, obliging them to act despite the inherent dangers to non-combatants. However, IHL maintains that the presence of combatants among civilians does not absolve attacking forces from their obligations to distinguish and to take all feasible precautions to minimize harm. This operational reality creates profound legal dilemmas. The principle of distinction demands that attacks be directed only at legitimate military objectives, but when militants deliberately embed themselves within civilian populations, the line between lawful and unlawful targets becomes blurred. Similarly, the duty of precaution requires that feasible steps be taken to reduce civilian harm, but in practice, what qualifies as "feasible" can be highly contested in fast-moving combat situations (Bawazir, 2019).

Moreover, the challenge of real-time proportionality assessments is exacerbated by incomplete or ambiguous intelligence, the speed of operations, and the pressures of urban combat. Commanders must make split-second decisions balancing military advantage against potential civilian harm, often under conditions of uncertainty. This raises questions about the adequacy of current military doctrine and the sufficiency of legal safeguards in such contexts. Furthermore, Palestinian armed groups' tactics, including firing unguided rockets into Israeli civilian areas and embedding military assets within civilian infrastructure, not only violate IHL but also increase the complexity of legal and ethical compliance by the Israeli military. Both parties' conduct thus perpetuates a cycle of legal and operational challenges that undermine civilian protection. The operational realities of the Gaza conflict create a legal quagmire where the rigid application of IHL principles meets the fluid and dangerous nature of asymmetrical urban warfare. These dilemmas call for enhanced legal clarity, operational restraint, and strengthened accountability mechanisms to safeguard civilian lives amid protracted hostilities (Darcy & Reynolds, 2010).

The urban and densely populated geography of the Gaza Strip heightens the complexity of conducting military operations without inflicting significant civilian harm. Israeli forces argue that the use of civilian infrastructure by Palestinian militants—such as storing weapons in residential buildings, firing rockets near hospitals, or using human shields—creates a "legal grey zone" that complicates adherence to the principles of distinction, proportionality, and precaution. However, under IHL, such conduct by one party does not absolve the other from its own legal obligations. The ICRC has consistently maintained that all parties to a conflict must independently adhere to the law, regardless of the other side's conduct. For instance, if militants embed themselves among civilians, the opposing force must still take feasible precautions and assess proportionality before launching attacks (Clarke, 2012).

Asymmetry and Civilian Harm

The pronounced asymmetry between the IDF and Palestinian armed groups significantly influences the scale and nature of civilian harm in the Gaza conflict. Israel's advanced military capabilities—including precision-guided munitions, intelligence technology, and an organized chain of command—contrast sharply with the more rudimentary weapons and guerrilla tactics employed by Hamas and other groups. This imbalance impacts not only the conduct of hostilities

but also the resulting humanitarian consequences. Israeli operations, often justified as efforts to neutralize military threats, have frequently resulted in extensive damage to civilian infrastructure and high numbers of civilian casualties. Airstrikes and artillery shelling in densely populated Gaza neighborhoods have destroyed homes, schools, hospitals, and essential utilities, exacerbating the humanitarian crisis. Reports by international bodies such as the United Nations and Human Rights Watch highlight concerns about whether such attacks consistently meet the requirements of proportionality and precaution under IHL, given the scale of collateral damage. Conversely, Palestinian armed groups employ tactics that inherently disregard civilian protection—most notably, the firing of unguided rockets and mortars indiscriminately into Israeli civilian areas. These attacks are unlawful under IHL because they cannot distinguish between military and civilian targets, endangering non-combatants and contributing to the cycle of violence (Weiner & Bell, 2008).

The asymmetry also manifests in the legal and political arena, where Israel, as a recognized state actor, is subject to greater scrutiny by international institutions, including the ICC and United Nations investigations. Palestinian non-state actors, while acknowledged as parties to the conflict, often operate outside formal accountability mechanisms, complicating efforts to ensure compliance with IHL by all parties. This disparity in military capability and legal accountability contributes to a disproportionate burden of harm borne by Gazan civilians. While Palestinian tactics violate IHL and exacerbate risks, the overwhelming firepower and operational reach of the IDF mean that civilian harm tends to be more extensive on the Gaza side, raising urgent questions about compliance with international legal standards. Ultimately, the asymmetry in military means and accountability frameworks deepens the humanitarian toll and underscores the urgent need for renewed efforts to uphold IHL's protective mandate for civilians on all sides of the conflict (Erakat, 2014).

One of the most controversial features of asymmetrical conflict in Gaza is the disproportionate level of civilian casualties and infrastructure destruction. Israeli airstrikes, often justified as targeting military objectives, have frequently resulted in high civilian tolls, drawing international condemnation and raising questions about the legality and legitimacy of military objectives selected. Meanwhile, rocket attacks from Gaza, although less technologically advanced, are inherently indiscriminate and aimed at civilian areas, which constitutes a direct violation of IHL. This asymmetry in military power and consequence creates a narrative imbalance in global legal discourse: while the actions of state actors are often scrutinized under the assumption of control and accountability, non-state actors operate with looser command structures and often evade formal legal scrutiny. As a result, legal mechanisms appear more frequently applied to the conduct of Israel, while the violations by Palestinian armed groups are acknowledged but less effectively addressed (Gul et al., 2025).

Accountability and the Limits of Enforcement

Accountability for violations of IHL in the Gaza conflict remains a significant and unresolved challenge, complicated by the asymmetrical nature of the conflict and geopolitical dynamics. While IHL establishes clear obligations for all parties to a conflict, enforcing compliance and prosecuting violations—particularly in protracted and politically charged conflicts like Gaza—proves difficult. State actors such as Israel, possessing formal military institutions and recognized international status, are subject to scrutiny

by international bodies like the ICC, the United Nations Human Rights Council (UNHRC), and ad hoc fact-finding missions. Israel has faced numerous allegations of war crimes, including disproportionate attacks, failure to take adequate precautions, and targeting of civilian infrastructure. Although Israel often disputes these allegations, citing operational necessity and adherence to its own military legal standards, international investigations continue to highlight potential violations. Non-state actors such as Hamas and other Palestinian armed groups, while equally bound by IHL, operate outside the traditional frameworks of state accountability. Their informal and decentralized command structures complicate efforts to investigate and prosecute alleged violations, such as the indiscriminate launching of rockets into civilian areas. The lack of clear legal mechanisms to hold such actors accountable undermines the universality of IHL enforcement (Khan & Usman, 2023).

The ICC's opening of a formal investigation into alleged war crimes in the occupied Palestinian territories marks a significant development but also exposes the limitations of international justice. Political pressures, questions of jurisdiction, and state non-cooperation hamper the court's effectiveness. Furthermore, enforcement relies heavily on states' willingness to cooperate, which is often influenced by geopolitical alliances and strategic interests. These enforcement limitations contribute to a climate of impunity that perpetuates cycles of violence and civilian suffering. Without credible mechanisms for accountability, violations of proportionality, distinction, and precaution often go unpunished, eroding respect for IHL and undermining its protective purpose. While accountability mechanisms exist in theory, their practical limitations in the Gaza conflict reveal the urgent need for strengthened international cooperation, depoliticized legal processes, and robust domestic enforcement to ensure that all parties to the conflict uphold their legal obligations and that victims receive justice. The asymmetrical nature of the conflict also poses severe challenges to accountability and enforcement. State actors like Israel are more susceptible to investigation by international bodies such as the ICC or the United Nations Human Rights Council, whereas non-state actors often lack the formal legal personality to be held accountable in the same forums. This disparity undermines the perception of impartial justice and fuels political contestation over international legal processes. Despite the 2021 decision by the ICC to open an investigation into alleged war crimes committed by both sides in the occupied Palestinian territories, the lack of enforcement capability and the politicization of international legal institutions continue to impede effective adjudication. The broader structural problem lies in IHL's traditional design for symmetrical state-based warfare, which struggles to address the tactical and ethical complexities of contemporary asymmetric conflicts (Khan et al., 2023).

Recalibrating Legal Norms?

The Gaza conflict highlights the pressing question of whether existing IHL norms sufficiently address the realities of modern asymmetrical warfare, particularly in dense urban environments characterized by blurred lines between civilian and military spheres. While the core principles of IHL—distinction, proportionality, precaution, and humanity—remain foundational, their application in conflicts like Gaza challenges their practical effectiveness and interpretative clarity. The unprecedented scale of civilian harm, the persistent use of human shields, and the operational difficulties of distinguishing legitimate targets have prompted some scholars and practitioners to advocate for a context-sensitive reinterpretation of legal standards. This approach emphasizes the need to adapt IHL's application to the tactical and technological realities of non-state actors embedded within civilian populations, while maintaining rigorous protections for civilians. At the same time, there is concern that recalibrating legal norms risks lowering the

threshold for acceptable harm or creating loopholes that justify disproportionate or indiscriminate attacks under the guise of operational necessity. The potential for such erosion underscores the delicate balance between legal flexibility and principled restraint (Hussain et al., 2023).

International bodies and legal commentators have proposed various measures to enhance the effectiveness of IHL in asymmetrical conflicts, including Developing operational guidelines that provide clearer instructions to armed forces on applying proportionality and precaution in urban combat. Strengthening monitoring and accountability mechanisms to ensure impartial investigation of alleged violations by all parties. Encouraging dialogue between legal experts, military practitioners, and humanitarian actors to refine interpretative frameworks that respect both military necessity and humanitarian imperatives. Promoting greater engagement with non-state actors to encourage adherence to IHL and foster norms of restraint. the Gaza conflict serves as a catalyst for re-examining the adaptability of IHL norms to contemporary warfare. While recalibration may be necessary to maintain relevance and effectiveness, it must be pursued cautiously to safeguard the fundamental humanitarian objectives that underpin the law. Upholding civilian protection must remain the non-negotiable core amid evolving legal and operational challenges (Khan et al., 2022).

The Gaza conflict challenges the relevance and resilience of IHL in asymmetrical settings. While the foundational principles—distinction, proportionality, precaution, and humanity—remain essential, their application in urban asymmetrical conflict requires a context-sensitive interpretation and perhaps further normative development. Scholars and legal institutions are increasingly advocating for operational guidelines and jurisprudence that adapt to the realities of such warfare while reaffirming the centrality of civilian protection, the Gaza conflict illustrates the limits of IHL in asymmetrical warfare, where legal rules are tested against complex urban dynamics, political entrenchment, and power disparities. Without a concerted effort to reaffirm the universal applicability of IHL—alongside mechanisms to ensure accountabilities for all parties—the humanitarian ideals underlying the law risk being undermined by the asymmetry of modern conflict itself. The Gaza conflict exemplifies the complexity of applying IHL in asymmetrical warfare, where a state actor confronts non-state groups embedded within a civilian population. Palestinian armed groups, such as Hamas and Islamic Jihad, often operate from densely populated areas, complicating Israel's ability to target military objectives without affecting civilians. Conversely, Israeli operations have frequently involved airstrikes and ground incursions that result in substantial civilian casualties and infrastructure damage, raising questions about proportionality and precaution (Khan et al., 2021).

CIVILIAN PROTECTION AND INDISCRIMINATE ATTACKS

A central pillar of IHL is the protection of civilians during armed conflict. The principles of distinction and precaution are designed to shield non-combatants from the ravages of hostilities. However, the Gaza conflict has repeatedly illustrated the devastating consequences when these protections are disregarded, particularly through indiscriminate attacks that fail to differentiate between military targets and civilian populations. Indiscriminate attacks are prohibited under Article 51(4) and (5) of Additional Protocol I and constitute a grave breach of IHL. These attacks include those that are not directed at a specific military objective or those that employ methods or

means of warfare incapable of distinguishing between civilians and combatants. The firing of unguided rockets from Gaza into Israeli population centers exemplifies this prohibition. Such attacks pose a direct threat to civilian lives and violate the obligation of parties to take all feasible measures to minimize civilian harm. Conversely, Israeli military operations in Gaza have also been criticized for practices that may amount to indiscriminate attacks, such as airstrikes in densely populated neighbourhoods causing high civilian casualties, even when purportedly targeting militants. The destruction of critical infrastructure—hospitals, schools, water and electricity systems—not only results in immediate civilian suffering but also impairs the long-term survival and dignity of the civilian population (Usman et al., 2021).

The challenges of ensuring civilian protection in Gaza are intensified by the use of human shields and the embedding of military assets within civilian areas by Palestinian armed groups. While this conduct constitutes a violation of IHL by those groups, it does not absolve the Israeli military from its duty to distinguish and apply proportionality and precaution when planning and executing attacks. The international community has repeatedly called for both parties to respect their legal obligations, emphasizing that civilian protection is non-negotiable regardless of the complexities posed by asymmetric warfare. Failure to do so not only breach legal norms but also deepens humanitarian crises and fuels cycles of violence. The Gaza conflict starkly reveals the devastating impact of indiscriminate attacks and the urgent need to reinforce the enforcement of IHL principles to ensure the protection of civilians in contemporary armed conflicts. Civilian protection under IHL prohibits direct targeting of civilians and attacks that fail to discriminate between military and civilian objects. Allegations of indiscriminate attacks by both Israeli forces and Palestinian groups have been substantiated by human rights organizations: Israeli airstrikes have reportedly targeted residential buildings without clear evidence of military objectives. Palestinian rocket attacks, inherently indiscriminate due to their imprecise nature, violate the principle of distinction. Such conduct, if verified, may amount to war crimes under the Rome Statute of the ICC (Khan et al., 2020).

ACCOUNTABILITY AND ENFORCEMENT CHALLENGES

Accountability remains one of the most persistent challenges in the Gaza conflict, undermining the effective enforcement of IHL and eroding trust in international legal mechanisms. Both state and non-state actors have been accused of violations, yet the complex political context, asymmetry in power, and limitations of enforcement mechanisms complicate efforts to hold perpetrators accountable. State actors like Israel are subject to international scrutiny by bodies such as the ICC and various United Nations investigative commissions. The ICC's 2021 decision to open an investigation into alleged war crimes in the occupied Palestinian territories marked a significant step toward legal accountability. However, enforcement of rulings depends heavily on cooperation by states and the political will of the international community. Israel's non-cooperation, coupled with geopolitical alliances, often limits the effectiveness of such investigations. Non-state armed groups operating in Gaza, including Hamas, present additional enforcement challenges. Their decentralized command structures and lack of formal recognition in international fora hinder investigations and prosecutions. While these groups are bound by IHL,

their accountability mechanisms remain largely informal and inconsistent, limiting legal recourse for victims of their actions (Khan et al., 2020).

Furthermore, the politicization of accountability efforts exacerbates enforcement difficulties. Accusations of bias and selectivity frequently arise, detracting from objective legal analysis and fueling political polarization. This dynamic undermines universal respect for IHL and hampers efforts to implement justice impartially. The absence of robust enforcement mechanisms fosters a climate of impunity, allowing violations to recur with limited consequences. Strengthening accountability requires not only legal and institutional reforms but also greater international cooperation and depoliticization of legal processes. Addressing accountability and enforcement challenges is essential to uphold IHL's protective aims and to promote justice for victims in the Gaza conflict. Without credible and impartial mechanisms, the humanitarian objectives of the law risk being overshadowed by ongoing violations and political contestation. Despite the legal clarity of IHL norms, enforcement remains weak. Israel contests the ICC's jurisdiction over Palestine, while internal investigations have often been criticized for lack of transparency and independence. On the Palestinian side, non-state actors are rarely held accountable under formal legal systems. International efforts, including UN fact-finding missions and ICC investigations, have faced political obstruction and limited cooperation. The lack of consistent accountability contributes to a cycle of impunity and undermines the deterrent function of IHL (Khan et al., 2020).

TOWARD STRENGTHENING CIVILIAN PROTECTION

The ongoing Gaza conflict underscores the urgent need to enhance mechanisms that protect civilians and uphold IHL in asymmetric and urban warfare settings. Strengthening civilian protection requires a multifaceted approach combining legal, operational, and political strategies. First, clarifying and reinforcing the application of IHL principles—especially distinction, proportionality, and precaution—is critical. This involves developing detailed operational guidelines for military forces engaged in urban conflict to minimize civilian harm while achieving legitimate military objectives. The dissemination of best practices and training on lawful targeting and risk assessment can improve compliance on the ground. Second, enhancing accountability mechanisms for all parties is vital. This includes supporting impartial investigations into alleged violations by both state and non-state actors and ensuring that perpetrators face consequences regardless of their status. International bodies such as the ICC and United Nations commissions must be empowered to operate free from political interference, and states should cooperate fully with their mandates (Williams, 2010).

Third, increasing humanitarian access and protection for civilians is essential to alleviate suffering during hostilities. Ensuring that humanitarian organizations can operate safely and that civilians have corridors for evacuation and medical care must be a priority in conflict management. Fourth, greater emphasis on engagement with non-state armed groups is necessary to encourage their compliance with IHL. Dialogue initiatives, confidence-building measures, and inclusion in normative discussions can foster adherence to humanitarian norms even in non-traditional combatants. Finally, international diplomatic efforts must focus on resolving the underlying political conflict that fuels cycles of violence, thereby addressing root causes rather than

symptoms. Durable peace is the ultimate safeguard for civilian protection. , strengthening civilian protection in Gaza demands an integrated approach that upholds legal standards, enforces accountability, facilitates humanitarian relief, and promotes long-term conflict resolution. Only through concerted efforts at multiple levels can the devastating human toll of the conflict be mitigated (Kilroy et al., 2024).

CONCLUSION

This research underscores the critical importance of IHL in regulating armed conflict and safeguarding civilian lives, particularly in the complex and devastating context of the Gaza conflict. The principles of distinction, proportionality, precaution, and humanity provide essential legal frameworks, yet their application faces profound challenges amid asymmetrical warfare, urban combat, and the use of civilian infrastructure for military purposes. Key findings reveal that while both state and non-state actors bear obligations under IHL, operational realities and enforcement limitations often result in significant civilian harm and legal ambiguity. The persistent challenges of accountability and enforcement highlight the need for strengthened international mechanisms and depoliticized legal processes to ensure justice and deterrence. This research matters because civilian protection is not only a legal imperative but a moral necessity that transcends political divides. Upholding IHL principles contributes to mitigating human suffering and preserving human dignity even amidst violent conflict.

Looking forward, future research should explore innovative legal interpretations and operational guidelines tailored to asymmetrical and urban warfare, balancing military necessity with humanitarian concerns. Further studies on effective engagement strategies with non-state actors and the role of emerging technologies in enhancing compliance and accountability could also provide valuable insights. Lastly, interdisciplinary approaches combining legal analysis, military strategy, and human rights perspectives will be essential in advancing the protection of civilians in modern conflicts. , advancing civilian protection in Gaza and similar conflicts demands sustained scholarly attention, robust legal frameworks, and committed international cooperation to translate the promise of IHL into tangible humanitarian outcomes. The Gaza conflict lays bare the difficulties of applying and enforcing International Humanitarian Law in asymmetrical, urban warfare. While IHL provides a robust legal framework for protecting civilians, its effectiveness is hampered by challenges in accountability, verification, and compliance. Upholding the principles of proportionality and civilian protection demands not only legal scrutiny but also sustained political and diplomatic engagement. Only through genuine commitment to legal norms can the international community hope to mitigate human suffering in future conflicts.

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