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International Humanitarian Law, Islamic Law of War and Protection of Women in an Armed Conflict

Ahtisham Akram

Advocate District Bar, Punjab Bar Council

Usama Jamil

University Law College, University of the Punjab, Lahore

ABSTRACT

The study aims to provide a comparative analysis of two distinct systems of Laws protecting women and Children during wartime. The study employs doctrinal legal research methodology to compare the Laws provided in Islamic Law and that in International Humanitarian Law. Islam is a religion of all times and deals with every walk of life. In armed Conflicts, civilians and most importantly, women become the victim of atrocities and aggression. Islam under its primary sources provides a comprehensive set of guidance regarding the limitations of wars and the protection of non-combatant women. Holy Prophet (PBUH) strictly prohibited the notion of aggression, particularly among the underprivileged. During that primitive era, the guidance of Islam prevailed and set an example for the drafters of International Humanitarian Law. Subsequently, International Humanitarian law also provides a comprehensive set of rules for the nations regarding the protections and safeguards of women and children during warfare. These rules overlap with Islamic principles and there are many similarities. Unfortunately, the researcher observed blatant violations of such principles in recent times. The implementation mechanism is found to be irresponsive and ineffective. Thus the study concluded that the protections of non-combatant women provided in Islamic law and International Humanitarian law must be ensured by every state during an armed conflict and International organizations must ensure the enforcement mechanism.

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Introduction

War, as well as armed conflicts, always create distress to humans not only for the combatants who are bound by their duties to protect and fight for their countries but also for non-combatants men and women who do not know about rules and traditions or anything to war. Wars always became a cause of damage to properties and lives, as well as the devastation of public properties and facilities provided by the government to their people, as ordinary incidents during war times. Wars are one of the nastiest selections usually chosen by the states or a group of troops when all efforts of peaceful conflict resolution are exhausted (Ahamat, 2011).

In these modern times, many states and religions of the world have allowed women to join the military and take part in armed conflicts with men. In this modern era, many women have been assaulted, brutalized, suffered, and violated their rights during armed conflicts. This brings up the question of whether the assurances of rights for non-combatant women during the war exist and if so, how to implement those rights and ensure protection against such violations.

To give answers to the above questions, it is mandatory to do an analytical review of principles regarding Islamic Law and International Humanitarian Law (hereinafter IHL). Before the discussion, the laws, treaties, and sources as they are relating to these principles, are mandatory to define the background of IHL and Islamic Law.

Islamic Law and IHL are only two protective mechanisms during wars or armed conflicts around the globe. The IHL and Islamic Law have the same objectives to grant safety and immunity to non-combatants, children and women during the war. Islam is the fastest-growing, oldest, and second-largest religion all over the world, (Center, 2015). Islamic Law has already protected women, and children for many centuries during warfare. The modern concept of IHL came into existence during the 19th century and before that, there were no international laws of war to provide protection and immunity (Hader, 2013). As compared to IHL, the Muslim world had already made the rules of war which were founded on Primary sources of Islam (Quran and Sunnah) almost 1400 years ago. Such rules are universally known as Fiqh al-Siyar (Islamic International Law) (Ahamat, 2011). This framework of Laws is derived from the Sunnah of the Holy Prophet (PBUH) during the battles he had fought and was expanded in the Post-Holy Prophet (PBUH) era till modern times. Many Muslim jurists have interpreted these rules of war and used these principles as a secondary source of Islamic Law.

The concept of IHL came into existence in the ninth century but its development took place after World War I. In 1949, during the meeting in Geneva, four conventions and their additional protocols were passed after successful dialogues between different representatives of states which were followed by significant laws and conventions. Later, these conventions and laws were recognized as International Humanitarian Laws (IHL) which are universally agreed upon by the majority of the countries in the world.

Problem Statement:

Despite the existence of two prevalent protection mechanisms namely Islamic and International Humanitarian Law, the atrocities on the children, women, and infirm never halt. Non-Combatants always become the victim of the brutality of war and armed conflict; therefore, it has become important to make an analytical study of these two systems to reach any compatible situation

Objectives of the study:

The main objectives of this study are to attain true knowledge about the rights of non-combatant women during the war,

- To find protection for women's rights during wartime under the Islamic Law
- To find protection for the rights of women under the IHL
- Attempt to Evaluate the Similarities between Islamic law and IHL regarding non-combatant women.
- To find a compatible situation to protect the rights of women during wartime.

Research Questions:

According to the above aims and objectives, this research work is going to cover the following questions,

- 1) What is Islamic Law? And how does it protect non-combatants of the war?
- 2) What is International Humanitarian Law? And how does it protect non-combatant women?
- 3) What are the similarities between IHL and Islamic law for non-combatant Women?
- 4) What may be the matters of compatibility?

Research Methodology:

In this Research, the Doctrinal Method of Research is employed. The Doctrinal Methods refer to Primary and Secondary Research, Library research, research or processes done on some legislation, treaties, texts writings or Documents, case reports, Articles, Books as well as Online Research and Journals relating to the subject. This study is an intensive one so this method is sufficient to address the findings and to arrive at a concrete conclusion.

Literature Review:

Islamic law and International Humanitarian Law (IHL) are the two most Prevalent Protection mechanisms during the war in the world both systems have the same objectives to provide protection and immunity to children, women and non-combatants during war times. Many researchers and jurists are working on Islamic Law and International Humanitarian law for many years as some of them are,

Dr Barkat Ali (2021) in his study, strived to search for the compatibility of the Islamic Jurisprudence and western Geneva conventions on the subject of women warrior rights. He analysed the role of combatant women and their rights protected under Islamic Law and International Humanitarian Law. Baban (2020) explained the protection of women as a whole in armed conflicts with special emphasis on western conventions. He critically analysed the four Geneva conventions and outlined the exclusive protections of women.

Dr Ahmed Al-Dawood (2017) described the main sources, origin, history, and characteristics of Islamic law by comparing different Islamic schools of thought and strived to find out a compatible situation between both Islamic laws and IHL. Amanda Alexander (2015) put special emphasis on the history and origin of IHL. She discussed the role of different international organizations and countries in the development of International Humanitarian Law. On the other hand, Finish (2013) particularly discussed the protections granted under International Humanitarian law. Munir (2011) conducted research on the collective rights of individuals during an armed conflict in the light of Islamic Law and International Humanitarian Law.

1 Islamic Law and Women's Rights During War

“O men, fear your Lord Who created you from a single soul, and from it created its match, and spread many men and women from the two. Fear Allah in whose name you ask each other (for your rights), and fear (the violations of the rights of) the womb-relations,” (Al-Qur’an 4:1)

Islam is the ultimate worldwide religion for the whole world and it has provided appropriate and equal principles for the external affairs of Muslim states with non-Muslim states during peace or war times. Islam is a peaceful religion and, it doesn't support the concept or atrocities of war. Islam allows them to wage war under the doctrine of necessity or to protect their territory from external attacks (Munir M., 2011). Islamic law specifies complete rules about the affairs of the Islamic state with other Islamic or Non-Islamic states. Islamic law regulates the principles of war (Jus in Bello, Jus ad Bellum). The term Fiqh-ul Siyar in Islamic law is used in International Islamic law. The meanings of Siyar (sira) are act, conduct, direction, lead, and control over things, (Munir D. M., 2007). Historically, the term Fiqh al Sira is used by many Muslim jurists as Islamic law of war. Many Muslim jurists give their opinion about the Siyar. According to Baddrudin Al Ain *“Siyar is the name of given the conduct of Holy Prophet (PBUH) during war and conduct of his companions and anything is reported through them in these situations,”* (Al-'Ai' ni). The renowned Muslim jurist Majid Khudori explains Siyar (Muslim International Law) as *“Designed to govern relations of Muslims, whether inside or outside the Muslim world,”* (Khudori, 1955). In this modern era, the Concept of Siyar (Muslim International law) is incorporated into the Constitutions of Muslim states. The relations of Muslims States with other states, the Situation of wars, and even matters of non-Muslims are governed through the constitution of Muslim States.

Women are considered delicate and physically weak as compared to men. She has strong emotions, tolerance, and a good heart. A woman bears the burden of looking after the child and plays a vital role in her marital life. Modern-day women are working equally with men in every walk of life. One of the most impressive facts about women is that they can manage both social and marital life at the same time that's why they are different from men.

Islam gives every right to women which was an idealism before Islam. The rights of women were violated brutally by people of that time and the present day, the exemplary position of women in Islam is because of the practice of culture by Muslims in the world. A study of Primary and Secondary sources of Islam along with the position of women in pre-Islamic societies proves how Islam was a great blessing for women, (WhyIslam). To define the position of women in Islam, we must know their position in pre-Islamic civilizations.

1.1 Status of Women in Islam

In primitive or Pre-Islamic Societies, women were merely considered sexual objects for men. At that time Islam declared fundamental rights for women. According to chapter 49, Verse 13 of the Holy Quran: *“O mankind! We created you from a single soul (pair) of a male and a female,”* (Al-Qur’an 49:13). This verse of the Holy Quran shows how Islam gave respect to women when no other religion or society was considering it a matter of concern.

In the pre-Islamic Era, the birth of a baby girl was considered bad luck, shame and danger to the dignity of their

family, so they started burying their girls alive and violating the fundamental right to life just to save their respect in society. In Holy Quran, Allah Almighty says that *“When one of them given the news of the female child, his face becomes gloomy and he is choked with grief, He hides himself from people because of the bad news given to him: Shall he keep it despite the disgrace, or put way into the dust? Evil is what they decide,”* (Al-Qur’an 16:58-59). This Verse of the Holy Quran clearly shows how newly born girls were treated before Islam, and how Islam provided necessary protections. Islam granted equal rights and duties to women and provided safeguards in every walk of life. Such duties are depicted in the following verse of the Holy Quran *“Never will I waste the work of a worker among you, whether male or female, one of you being from the other,”* (Al-Qur’an 3:195).

Islam gives a distinct identity to women. It provides a comprehensive set of rights and duties and sets liability for their acts under religious and divine obligations. It ensured the right to education almost fourteen hundred years ago as the Prophet (PBUH) stated that *“Obtaining education is an obligation upon each man and woman,”* (Majah). This Hadith shows the significance of education for both men and women.

In some instances, Islam gives a prominent value and superiority to women over men. Once a man questioned the Prophet Muhammad (PBUH): *“Who is most entitled to be treated with the best companionship by me?”* The Holy Prophet (PBUH) replied, *“your mother,”* (Al-Bukhari, 5971). This Hadith shows how Islam gave respect to women in every relationship. There is another case when a man reached before Muhammad (PBUH) and requested to enter a group of warriors. The Holy Prophet (PBUH) questioned him whether he had a mother, and the man replied in the affirmative. The Holy Prophet (PBUH) said, *“Stay with her, for Paradise is at her feet,”* (Al-Bukhari).

Islam also gives the right of inheritance to women. Allah says in Quran. *“For men, there is a share in what the parents and the nearest kin have left. And for women, there is a share in what the parents and the nearest kin have left.”* Before the advent of Islam, there was no concept of inheritance for women and She was deprived of this economic protection.

Hazrat Ayesha (RA), the wife of the Holy Prophet Muhammad (PUBH) had a special rank in Islamic history. Despite being the wife of the Last Prophet (PBUH), She was a Great Teacher of Islam. In a famous instance in the history of Islam, a woman corrected a man irrespective of the fact that he was the leader of that time. On an Occasion when Hazrat Umar (RA) intended to fix the amount of dowry, Ayesha (RA) stopped Him from doing this act. Subsequently, Hazrat Umar (RA) was delighted and said: *“The Lady is right and Umar is wrong,”* (Al-Bukhari). This incident shows how Islam gave respect to women in that primitive society.

1.2 Women’s Rights Protected under the Islamic Law of War

The Holy Quran and Sunnah are the Primary sources of Islamic law. Al-Quran and Hadiths of the Holy Prophet (PBUH) provided complete protection for women's rights during the war. According to Islamic law, war cannot be waged against neutral individuals or countries, no matter how many ideological differences may arise between them. Islam commands to be peaceful with such neutral people because Islam prohibits war and confrontation. It respects every human soul and takes full care of the sanctity of human blood at every level.

“Allah does not forbid you as regards those who did not fight you on account of faith and did not expel you from your homes, that you do good to them, and deal justly with them. Surely Allah loves those who maintain justice,” (Al-Qur’an 60:8).

The Above verse of the Holy Quran shows that Islamic law always commands us to adopt the path of moderation in all circumstances. Even during the war, brutal and unnecessary massacres are not allowed. Islam strictly forbids the massacre of innocent and non-Muslims, even during war. It is the only religion in the world that sets regular rules and regulations for armed conflicts and wars. Therefore, according to Islamic teachings, it is not allowed to kill, rape, harm, and disrespect women even during a war. According to one Hadith, A woman was found dead in one of the battles fought by the messenger of Allah (PBUH), He (PBUH) disapproved of the killing of women and Children (Muslim S.). Similarly, the prohibition of killing women during the war is clear from another hadith which has been recorded by Imam Abdul Razzaq, Imam Shafi'i in his Musnad, Imam Tahawi in Sharh Ma'ani Al-Athar, and Imam Bayhaqi in Al-Sunan Al-Kubra. *“It is narrated from Ibn Ka'b bin Malik that when the Holy Prophet*

(PBUH) sent an army towards Ibn Abi Haqiq, he explicitly forbade the army of Islam from killing women and children," (al-Bayhaqi).

In light of the above injunctions prohibiting the killing of non-Muslim women, children, and the weak during the war, the great Hanafi jurist Imam Surakhsi expresses his views in his book Al-Mabsoot. The Holy Prophet (PBUH) said: *"Do not kill children"*. This statement of the Holy Prophet (PBUH) signifies that killing children is not permissible (especially) while they are not involved in the fighting. In another Hadith, the Holy Prophet Muhammad (PBUH) forbade the killing of women and children and said: *"Kill the adults (only in a state of war) among the polytheists, but do not kill the women and children Still."* Shaykhs (adults involved in the war) are adults, Shurokhs mean children and women, and Istiha means to be gentle, as Allah says: {وَاسْتَحْيُوا نِسَاءَهُمْ} This verse is also used in the sense of behaving in a relaxed manner. Hazrat Abu Bakr Siddique (RA) bequeathed to Abi Sufyan to never kill any mortal Shaykh (old or dying) and a weak child (Sarkhasi).

Imam Ibn Abi Shaybah narrates from Hazrat Rashid bin Saad that, *"The Holy Prophet (PBUH) prohibited the killing of children, women and those who have no power,"* (Shaybah). Ibn-e-Umar narrated, *"A woman was found killed during the battle the Holy Prophet (PBUH) strictly forbade the killing of women,"* (Muslim S.). These Hadiths clearly show how the Holy Prophet (PBUH) was conscious about the rights of non-combatant women and children during the war.

Islam considers the sanctity of human blood to be more virtuous than the sanctity of the Kaaba. Unjust blood has also been condemned during the war. The Muslim army was not even allowed to enter the homes of the enemy without permission. Even in wartime, Islam emphasizes the protection of *'Chadar and Chardewari'*. It is narrated in Sunan Abi Dawood by Hazrat Arabad bin Saria Salmi (RA) that they landed at Khyber with the Holy Prophet (PBUH) and many companions were with him. The chief of Khyber was a proud man and He came to Holy Prophet (PBUH) and said to him, *"Is It good for you to beat and kill our women and eat our fruits?"* In these words, the Holy Prophet (PBUH) got angry and replied to him: *"O Ibn Awf ride on your horse and preach that heaven is not lawful but gather for the believers and the prayer"*. The narrator stated that when the people gathered, the Prophet (PBUH) led the prayer and stood up and said: *"Do any of you, leaning on your seat, think that Allah Almighty has not forbidden anything except what is mentioned in the Qur'an? Be aware, by God, everything I have said while admonishing, commanding, and forbidding certain things is like the Qur'an, but their number is more than the Quranic matters. Allah has forbid you to enter into houses of peoples without their permission, and it is unlawful for them to beat their wives and eat of their fruits,"* (Al-Bayhaqi). These historic words of the Holy Prophet (PBUH) reflect that He (PBUH) was against the violation of women's rights.

During all the battles in which the Holy Prophet (PBUH) participated, He (PBUH) was never allowed to take women as a prisoner. In the Battle of Badar, several women came with the warrior troops, after the victory of Muslims, the Holy Prophet advised their warriors not to chase women and wounded persons on the battlefield (Muslim I.). Islamic law never allowed to take women as prisoners during the war.

After the Death of the Holy Prophet (PBUH), His (PBUH) companions also followed this path, instructions, and Islamic law in every field of war. Hazrat Abu Bakar (RA) was the first Caliph of Islam and He always obeyed the instructions of the Holy Prophet (PBUH) during wars. Caliph Umar (RA) guided His military commander Usama bin Zaid and said: *"Stop, O People that I may give to ten rules for guidance in the battlefield. Do not commit treachery or deviate from the right path; you must not mutilate dead bodies; do not kill women, a child or an aged man; do not cut down fruit trees; do not destroy inhabited areas; do not slaughter any of enemies' sheep, cow or camel except for food; do not burn date palms; do not embezzle nor be guilty of cowardliness... You are likely to pass by the people who have devoted their lives to monastic services; leave them alone,"* (Anas). This address of Caliph Umar (RA) covers all important principles of modern International Humanitarian Law.

2 Women's Rights in International Humanitarian Law

International Humanitarian Law is the category of International law, which is motivated by deliberations of humanity and the alleviation of human suffering. It includes a set of rules, recognized by conventions or treaties, which protects the human life and property affected during armed conflicts (Hader, 2013). In 1859 the rules of IHL started from the battle of Solferino among the French and Austrian militaries through the observance of Henry

Dunant. He was concerned about the suffering of the many soldiers injured during this war. He tried to rescue the injured soldiers with the help of local people. Consequently, in 1864 the efforts changed into reality by founding the first Geneva Convention and Committee of Red Cross. The Present-day International Humanitarian Law (IHL) contains four Geneva Conventions 1949 and the two Additional Protocols 1977, which are universally accepted and signed by almost all countries in the World (Dr. Barkat Ali, 2021).

2.1 Women's Rights during Armed Conflicts:

Women are the major sufferers of any armed conflicts or warfare. There are various forms of aggression inflicted upon women in armed conflicts, containing gender-based aggression, killing, sexual violence, forced prostitution, and detention. Moreover, due to armed conflict, the loss of family also affects the gender relations of women (Baban, 2020).

During all Armed Conflicts, Non-Combatant Women and children have been suffering due to violations of IHL and Human Rights. Due to the carelessness of the armed forces, women became the victims of sexual violence during the war. Non-Combatant Women become sufferers of sexual assault due to their humility being ruined by aggressors. Female Genital Mutilation (FGM) is a brutal form of aggression which is banned all around the world, but it is frequently practised against women during armed conflicts (Ivanciu, 2016). Since 1990, almost 90% of deaths caused by armed conflicts came out to be civilians and among them, the majority are women and children (Otinu, 2002).

On 26 October 2006, the President of the Security Council made a speech on women's rights. In his address, he acknowledged that the Security Council was truly afraid of the violence against women in the wars as well as sexual assault, murder, rape, and genocide. The council highly condemns these types of war crimes against the dignity of women and will try to end these genocide crimes and need to end impunity of aggressors who are responsible for that gender-based violence (McCormack, 2006).

The continuous breach of International Humanitarian Law and the United Nations Human Rights (UNHR) is done by Israeli forces in the Occupied Palestinian Territories (OPT) inflicting mass terror on the women of Palestine. Since 1967, when this tension started between these two nations, there was not a single day when Israeli forces did not attack and kill any innocent Palestinian women and children (UN Doc. A/HRC/34/70. 4, 2017, para. 16). The most recent violation of International Humanitarian Law is done by Israeli forces in Gaza. On 16 May 2021, heavy airstrikes are done by Israeli forces on Gaza. The Israeli forces used hundreds of rockets and targeted Civilian Houses, Media Houses, Banks, and Hospitals which is totally against the IHL and UNHR Charter and principles. Due to these wrongful airstrikes, 200 civilians were killed, 1230 civilians were wounded, and most of them were women (TRTWORLD, 2021). According to a report of ALJAZEERA, on 16th June 2021, the Israeli-occupied forces in the occupied west bank near Himza killed a 29 years old Palestinian Doctoral Student name Mai Afanah. She was brutally attacked by Israeli forces and left her dead body in her car (ALJAZEERA, 2021). These wrongful acts are blatant violations of International Humanitarian Law, but no International Institution can take action against these war crimes because the aggressor is stronger than this law and system.

2.2 Protections under International Humanitarian Law:

During armed conflicts, non-combatant women must be considered in a way that grasps their certain needs (Qurashi, 2013). In an International Armed Conflict, non-combatant women and children are protected under the Fourth Geneva Convention and two Additional Protocols of International Humanitarian Law. Under the Subject of the IHL, non-combatant women should be treated in a good manner and protected from sexual violence, torturing, human trafficking, genocide, or any wrongful acts during war times (Papyan, 2016).

Geneva Convention IV of 1949, Article 27 provides general protection to women during an armed conflict that *"Women shall be specially secured against any attack on their honour, in particular against enforced prostitution, rape or any form of indecent assault,"* (Geneva Convention IV, 1949, article 27, para 2). Article 76 of Additional Protocol I contains some special provisions for non-combatant women who are the sufferer of armed conflict *"Women are of special concern and protected in particular from rape, forced prostitution and any other form of inappropriate assault"*. According to the United Nations Economic and Social Council's resolution *"Protection of women and in the time of emergency, war, the struggle for peace, national liberation, and independence."* Article 3 is common in all four Geneva conventions of 1949 and Additional Protocol I of 1977 which protects all persons

who are not taking part in the war. Nevertheless, In Article 3 of Additional Protocol I, there is no important protection for non-combatant women. This article was improved and developed under Additional Protocol II and protects women. Article 4 of Additional Protocol II forbids “*outrages on personal dignity, in particular, humiliating and degrading treatment rape, enforced prostitution, and any form of indecent assault*”.

The First Geneva Convention was about the condition of the Wounded and Sick in the armed forces on the battleground and the second Geneva Convention was about the condition of the Wounded and Sick in the armed forces at Sea, but there is a similarity in both conventions. According to such convention, “*women shall be treated with all consideration due to their sex,*” (Geneva Convention II, 1949, article 12, para 4). Article 70 of Additional Protocol I granted special treatment to pregnant women and breastfeeding women should be given priority over others when any grants will be given during armed conflict (Additional Protocol I, 1977, article 70). All four Geneva Conventions of 1949 and both Additional Protocols of 1977 consist of some provisions that specially address women. These special protections are specifically designed for women that address women's “*respect*” or “*consideration due to their gender*” which required respect for them, (Gardam and Jarvis, 2011, p. 60).

In 1993, the Vienna Conference on Human rights states that “*Women's rights violation during armed conflicts creates a disturbance in fundamental principles of IHL and International Human Rights. All these violations, including murder, rape, sexual assault, genocide, slavery of women in actual, requires a specific active response,*” (Vienna Declaration, World, 1993, 14-25).

Article 13 of Additional Protocol II deals with non-international armed conflicts; it states that “*the civilian population as such, as well as individual civilians, shall not be the object of attack,*” (Additional Protocol II, 1977, article 13). According to Article 14 of Geneva Convention III of 1949 “*women shall be treated with all the regard due to their sex,*” In 1995, the World Conference on Women was hosted in Beijing, during this conference the international community committed to “*fully respect the standards of international humanitarian law in armed conflict and take all necessary measures to protect women,*” (Beijing Declaration, 1995, para. 144).

International Humanitarian Law protects women against sexual violence during armed conflicts. Article 12 of the First and Second Geneva Conventions provides immunity from torture, ill-treatment, and violence from these war crimes to women during wartime. It is because women are “*treated with respect for their gender,*” (Gaggioli, 2014). In September 2005, In the General Assembly, the World Summit of the United Nations resolved to “*eliminate all forms of discrimination and violence against women and girls, including ending impunity and ensuring the safety of vulnerable groups, especially women and girls, during and after armed conflicts in line with states obligations under the International Humanitarian and International Human Rights,*” (UN Doc. A/60/L.1,2005, Para. 58(f).

From above mention laws, conventions, protocols, and international conferences for women, it is clear that International Humanitarian Law protects the rights of non-combatant women during armed conflict. But there are so many powerful forces that are violating this law without any fear and no one can punish them for their war crimes against the women's community.

3 Similarities between Islamic Law and International Humanitarian Law

The vast, authentic, and exhaustive available Islamic law Literature related to non-combatant women's rights during armed conflicts shows that many of the rights, issues, and protections covered by International Humanitarian Law (IHL) were explained by Muslim jurists many centuries before, too attained the same objectives as IHL explain regarding non-combatants women's rights. Islamic Law pursued humanized armed conflicts by protecting the rights and lives of non-combatant women. International Humanitarian law assists in safeguarding all non-combatants who are not taking part in armed conflict but also reduce the methods of warfare. Islamic Law ensures the victims of armed conflict with the right to protection, respect, and gracious humane treatment. It also calls for the protection of civilian facilities and property. Islamic Law reduces the methods and ways of warfare to the limits of military necessity. All this is in full compliance with the provisions of the International Humanitarian Law and Geneva Conventions. Islamic law always protected women during the war and after the war like IHL. There are the following Similarities between Islamic Law and IHL.

- Islamic Law provides protection that women will not be killed, raped or assault during the war. The International Humanitarian Law also provides this protection under Article 27 of the Geneva Convention, IV, 1949.
- Islamic law protects pregnant women and any maternity cases during the war, these women should be protected specially and treated differently from others. Similarly, the Additional Protocol I, 1977, Article 76 of IHL also provides this immunity to pregnant women that they should be arrested or detained in any armed conflict. They have special immunity and should be treated well as others during the war.
- Islamic Law provides special rank and respect to women in Islamic history, that women always deserve respect due to their gender. Some articles in the Geneva Conventions and Protocols of IHL were specifically designed for women to give special respect to women.
- Islamic Law provides that Civilians (non-combatants women or men) should be not the target of attack during the war. Article 13 of Additional Protocol II of IHL also gives this protection to civilians so that they should not be targeted during armed conflicts.
- Islamic Law Prohibited Indiscriminate methods during the war, for example, attacking at night, enter in houses without permission, and attacks on religious places. Article 51(4) of the Additional Protocol also prohibits these methods of war.
- Islamic law prohibits the mutilation of dead bodies during war. Similar protection is also provided under Article 15 of the Geneva Convention I of 1949.

The Islamic Law sources, origins, and modes of applying law are very unique and clear. However, the resemblances between Islamic law and IHL regarding non-combatant women's rights during armed conflicts indicate that both these legal systems have similar objects. The aforesaid principles of Islamic Law protecting the rights of women in the war times and the Al-Quran, Hadiths, and literature given by the Muslim jurists were aimed to protect the rights of women during the war.

4 Conclusion

Based on the above analysis, we can say that the principles of Islamic Law and International Humanitarian law have the same aim to protect the rights of non-combatant women during the war. Armed conflicts have a major impact on women's lives, sometimes protection of non-combatant women's rights becomes the victim of complexity because of the Polarization of conflict of war. Both Islamic Law and International humanitarian law are compatible in international legal structure to protect women in armed conflict, to ensure that their fundamental rights should not be violated during the armed conflict. For example, the Holy Quran, Hadiths, 1949 Geneva Convention, and its additional protocols specify fundamental rights that cannot be violated in any circumstance, even in armed conflicts. Islamic Law and International humanitarian law have given a legal framework to secure non-combatant women in armed conflicts, but the principles of Islamic law have always protected non-combatant women's rights for many centuries as compared to modern-day International Humanitarian Law. The Status of non-combatant women is almost the same in Islamic Law and International Humanitarian Law; both laws have special protections for non-combatant women's rights.

These laws provide protection surety of women's rights in their principles but the current scenario and facts are different; the powerful aggressors are continually violating these rights without any fear. No one can stop the aggression of wrongdoers because they are more powerful than this system. Laws regarding non-combatant women's safety and security during armed conflict must be scattered as broadly as possible and applied during the conditions of war. Armed laws should be restraining the sexual assault of women during the war. Violations of IHL regarding non-combatant women's rights should be supervised with a system. Try to make Separate rules relating to the safety of non-combatant women. In the eye of the above facts the current violations against women's rights during armed conflicts, It is recommended that existing International Humanitarian Law must be evaluated and its current procedures must be changed and make a higher authority to control the powers of aggressors and punish these wrongdoers

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