

# **The Possibility of Conciliation between International Humanitarian Law and Islamic Law of War: A Myth or Reality?**

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## **Abstract**

The authenticity of both International Humanitarian Law and the Islamic Law of War has remained a topic of discussion among Western and Muslim scholars. The Western narrative has been criticizing Islamic Law of War as of brutal and unhuman character that does not complement with International Humanitarian Law, while Muslim scholars have named International Humanitarian Law as Western Humanitarian Law that does not consider various cultural and religious contexts. In the age of globalization, it is needed to reach conciliation between both the systems to save humanity suffering from the effects of conflicts. This study investigates compatibility between International Humanitarian Law and Islamic Law of War as to assess the possibility of conciliation between both the systems. The proponents of the theory of the conciliation between both the systems have been presenting the similarities between International Humanitarian Law and Islam. The opponents have been trying to point out the differences between International Humanitarian Law and the Islamic Law of War by considering the possibility of conciliation between both as a myth. This study looks to explore, the doctrinal as well as theoretical aspects of, the possibility of conciliation between International Humanitarian Law and Islamic Law of War by looking at differences and similarities in the nature, scope and prominent rules of both the laws.

**Keywords:** International Humanitarian Law, Islamic Law of War, Conciliation

## **Introduction:**

The conciliation between International Humanitarian Law and Islam has been discussed and analysed by Western scholars and Muslim scholars at different forums. The Western scholars have been criticising Islam upon its rigid rules and strict approach towards non-Muslims. They have been blaming the concept of Jihad in Islam that aims to establish a universal Islamic state by converting people to Islam through coercion and the use of force.

It is necessary to find a middle path between both the extreme views among Muslim religious scholars and western scholars. The views of the modernist Islamic scholars favour the idea of conciliation between International Humanitarian Law and the Islamic Law of War. Muslim religious scholars must respect the International Humanitarian Law. Western scholars also need to revisit their concepts and views about the humanitarian values of Islam. They should refrain from blaming Islam for the destruction of western value and considering Islam as responsible for all the problems faced by the western civilisation. A composite dialogue and interfaith harmony are necessary to bring conciliation between both the streams.

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This paper discusses the relationship between International Humanitarian Law and the Islamic Law of war to assess the compatibility and possibility of conciliation between both the systems. This paper provides a brief introduction to Islamic Law of War that gives an overview of Islamic Law of War along with its background and main sources and discussions among scholars upon the matter of the compatibility of International Humanitarian Law with Islam.

The differences and similarities between both the systems have been analysed as to build a relationship between International Humanitarian Law and the Islamic Law of War. The outcome of the discussion results in the formation of a theory about the compatibility of International Law with Islam. The concepts and ideas of the conciliation between International Humanitarian Law and Islam have been established since the similarities and acceptance of rules between both the systems.

#### **International Humanitarian Law (IHL):**

“International Humanitarian Law is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not or are no longer participating in the hostilities and restricts the means and methods of warfare. International humanitarian law is also known as the law of war or the law of armed conflicts”.<sup>1</sup>

International Humanitarian Law ensures the protections of objects including medical staff, hospitals, ambulances and other significant pieces of civilian and cultural property as well as worship places, art works and historical monuments in times of armed conflicts through binding the parties to a conflict. IHL prohibits to destroy infrastructures necessary for the survival of the civilians (for example, drinking water supplies). The utilization of weapons and military strategies is lemmatized by International Humanitarian Law during armed conflicts to limit the impacts of fighting. International Humanitarian Law forces the parties to armed conflicts to make a clear distinction among people who are fighting and those who are not or no more taking part in hostilities as to save the civilians from the effects of armed conflict.

International Humanitarian Law is, in fact, a branch of International Law that deals with the matters of armed conflicts of both international and non-international character, separating them from internal disturbances. The major purpose of International Humanitarian Law is to protect persons who are not or no more participating in hostilities and restricting the means and methods of warfare to save people from the effects of hostilities.<sup>2</sup> International Humanitarian Law, basically inspired by considerations of humanity and the mitigation of human sufferings, is comprised of a set of rules derived from treaties and customs, that aims to provide protection to persons, their properties and other objects under threat of being destroyed as a result of fightings and force the parties to a conflict to limit the use of methods and means of warfare.<sup>3</sup> International Humanitarian Law has mainly emerged and developed through the mutual cooperation and willingness of the states.<sup>4</sup>

<sup>1</sup> ” ICRC. Accessed July 12, 2018 [https://www.icrc.org/en/doc/assets/files/other/what\\_is\\_ihl.pdf](https://www.icrc.org/en/doc/assets/files/other/what_is_ihl.pdf)

<sup>2</sup> Stewart, James. "Towards A Single Definition of Armed Conflict in International Humanitarian Law". *IRRC*, no. 850, 2003, 313.

<sup>3</sup> GSDRC. ", International Legal Frameworks for Humanitarian Action: Topic Guide". (Birmingham: University of Birmingham, 2013).

<sup>4</sup> Kaczorowska-Ireland, Alina. *Public International Law*. Abingdon, (Oxon: Routledge, 2015).

There are two main treaty sources of International Humanitarian Law, The Hague Conventions (1970) and the four Geneva Conventions. The Hague Conventions (The Hague Law) restrict the unjustified use of dangerous weapons used by the parties to a conflict. This particular area of IHL is related to the conduct of hostilities that has been developed through the Hague Conventions.

The Geneva Conventions (The Geneva Law) protects persons who are not, or no longer, participating in the hostilities. These persons mainly include civilians, prisoners of war, the sick and wounded. This area of IHL is concerned with the protection of victims of armed conflicts and was primarily regulated by the four 1949 Geneva Convention.<sup>5</sup> The Hague Conventions restrict the parties to a conflict to use unlimited means and methods of warfare, and the Geneva Conventions provide protection to vulnerable people.<sup>6</sup> Today, the distinction between Hague Law and Geneva Law is known to be merely historical, by merging both the laws with the adoption of Additional Protocols I and II in 1977.<sup>7</sup>

### **Islamic Law of War:**

Islamic law is not only a law but also provides a complete set of rules for Muslims that regulates their conduct of whole life and dealings with religious and social matters. Muslims seek guidance from the Islamic set of rules in times of armed conflicts as well.<sup>8</sup> The branch of the Islamic Law that deals the matters with other states is called *Siyar* (Islamic international law).<sup>9</sup> The relationship between Muslims and non-Muslims are dealt with under *Al-Sīyar*. Islamic Law of War is a part of *Al-Sīyar* that contains the rules of armed conflicts and conduct of Muslims during armed conflicts.<sup>10</sup>

Imam Abu Hanifa, being the first scholar to institutionalise and formalise the concept of al-siyar, has given a series of lectures with the title of “the Muslims laws of war and peace.” His lectures have been compiled by one of his students, named Muhammad Ibn Hassan Shaybani, with the title of “Introduction to the Laws of Nations.” This compilation of lectures has been translated by *Mājid Khadduri* in English with the title of “, The Islamic Law of Nations.” This translated version in English is a valuable contribution towards the understanding of the contemporary Islamic International Law.<sup>11</sup> It is a general concept about the Islamic Law of War that it is an outcome of the humanly interpreted shape of divine laws. The states or individuals play no part in the shaping of the Islamic Law of War, except their interpretive abilities. The jurists and scholars play an important role in translating the divine laws into a worldly acceptable legal system, where the state is not given a major role in the formation of the legal system. The scholars do not give much importance to the role played by the scholars and jurists in the

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<sup>5</sup> Crawford, Emily, and Alison Pert. *International Humanitarian Law*. Cambridge, (United Kingdom: Cambridge University Press, 2015).

<sup>6</sup> Humanitarian Policy Group. "The Principles of Humanitarian Action in International Humanitarian Law". (London: Overseas Development Institute, 2000).

<sup>7</sup> Ibid, 4.

<sup>8</sup> Khadduri, Majid. *The Islamic Law of Nations*. (John Hopkins University Press, 2001).

<sup>9</sup> Munir, Muhammad. "Islamic International Law (Siyar): An Introduction". *SSRN Electronic Journal*. 2007, doi:10.2139/ssrn.1835823.

<sup>10</sup> Bouzenita, Anke Iman. "The Siyar — An Islamic Law of Nations?". *Asian Journal of Social Science*, 2007, 35 (1): 19-46. doi:10.1163/156853107x170150.

<sup>11</sup> Bello, Abdul Majeed Hassan. "Concept of Jihad and Its Nature in Islam". *IOSR Journal of Humanities and Social Science*, 2013, 8 (1): 25-32. doi:10.9790/0837-0812532.

translation of divine laws into the worldly legal system. They do not focus on the process of scholarly development of the laws. Their focus remains on the outcomes that are achieved by these laws.

There are some classical and medieval Islamic legal scholars who reflect a high level of originality in their work due to their expert approach towards worldliness. In most of the cases, in the establishment of a coherent legal system on the matter of rules and regulations of war, the intervention by the scholars converted into the shape of a highly legalistic approach, and it influenced the formation of the legal system.<sup>12</sup>

The Islamic Law of War was originated in the times of frequent interactions and waged wars between the troops of Prophet Muhammad and armed forces of other tribes. The need was felt to elaborate on the set of rules and regulations relating to Islamic conduct and behaviour during wars.<sup>13</sup> These rules of war were compiled and shaped along the waged wars in the times of Prophet of Islam. This law was further, expanded in post-Prophet, medieval Islam, and recent periods. The later established of Islamic Law of War mainly included laws of war, treaties of war and humanitarian rules.<sup>14</sup>

*Qur'ān* is the first and Sunna (a compilation of the Prophet's words, decisions, and actions) is the second source of Islamic Law of War. *Qur'ān* and Sunnah are considered as the Primary Sources of Islamic law by the Muslims.<sup>15</sup> Muslims believe that the *Qur'ān* is the very word of God, consisting of revelations to the Prophet Muhammad in 23 years. Sunna is the compilation of Prophet Muhammad's actions, sayings, and opinions during his lifetime. Ijma is the third source of Islamic Law that is based on the consensus of opinion on a question by the jurists among the followers of the Prophet Muhammad. Qiyas, the analogical deduction is the fourth source of Islamic Law. But it can be employed if no guidance upon the point of discussion is available in any of the first three sources of Islamic Law. The consensus of learned Muslims scholars deciding together on legal issues, called Ijma is the third source and human reasoning, named ray and aqal, is the fourth source of Islamic Law of War.<sup>16</sup>

#### **International Humanitarian Law and the Islamic Law of War:**

The scholars who believe the existence of a strong relationship between International Humanitarian Law and Islam argue that the Islam Law of War (armed conflict) and International Humanitarian Law are not only compatible with each other but also complement each other at national and regional levels.<sup>17</sup> The claims of the existence of any fundamental conflict between International Humanitarian Law and Islam seem

<sup>12</sup> Badawi, Nesrine. "Download PDF File 247 KB Action Link: Article Available Here Islamic Jurisprudence and The Regulation of Armed Conflict", 2019.

<https://hhi.harvard.edu/publications/islamic-jurisprudence-and-regulation-armed-conflict>.

<sup>13</sup> Kruse, Hans. *The Foundation of International Islamic Jurisprudence*. (Karachi: Pakistan Historical Society, 1956).

<sup>14</sup> Hashmi, Sohail H. *Just Wars, Holy Wars, And Jihads*. (New York: Oxford University Press, 2012).

<sup>15</sup> Al-Jarhi, Mabid Ali M. M. "An Economic Theory of Islamic Finance Regulation". *Islamic Economic Studies*, 2016, 24 (2): 1-43. doi:10.12816/0033333.

<sup>16</sup> Ali, Shaheen S., and Javaid Rehman. "The Concept of Jihad In Islamic International Law". *SSRN Electronic Journal*, 2012, doi:10.2139/ssrn.2055140.

<sup>17</sup> Shah, Niaz A. *Islamic Law and the Law of Armed Conflict: The Conflict in Pakistan*. (Routledge, 2011).

irrational by looking at the logical relationship between international humanitarian law and the Islamic Law of War.

The present global context clarifies the essential purpose and nature of international humanitarian law where Islamic law seems supporting the possibility of international humanitarian law in the context of Islamic states.<sup>18</sup> The modern Islamic states are a signatory to the International Humanitarian Law documents and are abided by the rules of International Humanitarian Law along with the Islamic Law of War. The Islamic Law of War, in combination with the rules of International Humanitarian Law, have been applied in practice by the Islamic Republic of Iran during its war with Iraq (1980-1988).<sup>19</sup>

International Humanitarian Law and Islamic Law of War both are, perhaps, unanimous on the matter of distinction between Combatants and Civilians. Both provide protection to civilians by making a distinction between civilians and combatants.<sup>20</sup> Although, International Humanitarian Law provides detail protection to civilians through Geneva Conventions and their Additional Protocols that are not provided in detail in Islamic Law of War, yet Islamic covers almost all of them in one way or other through its legal sources. Islam, as well as IHL, direct the parties to follow the principles and requirements of war and should give way to humanitarian imperatives.<sup>21</sup>

Islamic Law of War recognises the principles of proportionality, humanism, kind heartedness, non-discrimination, respect, fraternity, equality and Justice. There exist humanitarian standards under Islamic Law of War that provide protection against torture killings, unnecessary sufferings, excess, wickedness, mutilation and killings of non-combatants that include children that are not warriors, slaves, servants, blind, incapacitated, senior citizens and physically challenged people. Islamic Law of War further prohibits the destruction of herbs, trees, harvests, houses, cities, belongings, and religious symbols.<sup>22</sup>

Further, Islamic Law of War prohibits expulsion from homelands, rape, blockade, using weapons of mass destruction, massacre, acts of revenge on the civilian and considers genocide as non-respecting the principle of humanitarianism and equality. The uprooting or burning palms and cutting down of fruit trees is prohibited. The destruction of the villages or towns and slaughtering of cattle is also prohibited. The humanitarian rules of Islam are divine orders and may not be disrespected. The disrespect of these divine orders amounts to a lack of faith.<sup>23</sup>

The principle of making distinction among the civilians and belligerents is duly recognised by leading Muslim scholars as is recognised by International Humanitarian Law. Al Mawdudi and Wahab al *Zuhaylī*, the renowned Muslim scholars, the rule of

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<sup>18</sup> An-Naim, Abdullah. *Toward an Islamic Reformation: Civil Liberties, Human Rights and International Law*. (Syracuse University Press, 1990).

<sup>19</sup> Van Engeland, Anicee. *The Challenges of Fragmentation of International Humanitarian Law Regarding the protection of civilians in Islamic Perspective*. (Hague Academic Press, 2010).

<sup>20</sup> Ibid 18

<sup>21</sup> Haleem, Abdul *et al.* *The Crescent and the Cross: Muslim and Christian Approaches to War and Peace*. (New York: MacMillan, New York, 1998).

<sup>22</sup> *Al-Qur'ān*, An-Nahl:

<sup>23</sup> Shokry, Muhammad. *State's Crimes against Humanity: Genocide, Deportation and Torture from the Perspectives of International and Islamic Laws.*, (Kuala Lumpur: A.S Noordeen, 2000).

difference between combatants and non-combatants must be respected and they provide the rationale for not killing those who are not taking part in fighting during conflict as they are unable to harm others. Islam prohibits the killing of those who do not enter a fight. The reasoning of Islam on the matter of distinction between civilians and belligerents is like the reasoning under Article 50 of the 1977 Additional Protocol to the 1949 Geneva Conventions. The Islamic reformist approach of the distinction between civilians and combatants has much in common with the Geneva Conventions, in particular with the fourth Geneva Conventions and with Additional Protocol I to the Conventions.<sup>24</sup>

The Islamic rules of saving lives need to be advocated by the Muslim Jurists, especially in recent times when Islamic extremist groups reflect the hard image of Islamic rules of killings. The Muslim jurists are working hard to present the soft image of Islam by advocating the lifesaving rules of Islam in recent times and condemning all the terrorist activities by reiterating that civilians can not be targeted during conflicts. For example, the Grand Imam of Masjid Al-Azhar/Grand Sheikh of University Al-Azhar, through a fatwa condemned the acts of taking people as hostage in the Philippines and declared that there is no permission for any form of violence in Islam and any act of violence is not tolerable under Islam.<sup>25</sup>

Maulana Wahiduddin Khan condemns the acts of hostage and calls it cowardice that is entirely forbidden in Islam. According to him:

“to take a hostage is to catch hold of innocent persons by availing of some opportunity and then start bargaining from there. This practice was prevalent in ancient times, but it has now assumed a tactical form. This is a great sin and cowardice and is entirely forbidden in Islam as you tend to take revenge from persons for your grievances other than from the concerned person. To bully any innocent person on the basis of some excuse is entirely unjustified in Islam”.<sup>26</sup>

The principle of human treatment is recognised as a norm of the customary International Law that applies in both the situations the conflicts of international and non-International character.<sup>27</sup> Islamic Law strictly prohibits the unlawful killing of any person except by way of justice. Per Sunnah, the killing of monks in monasteries and the killing people in the places of worship is strictly prohibited. And even the *Qur'an* considers the murder of one person as the murder of the whole of humanity and it considers saving the life of one person as saving the whole humanity.

Like International Humanitarian Law, the Islamic Law of War applies to both the international and non-international conflicts. The Muslims fought the Battle of Bassorah that can be called as the first civil war. In this war, the fourth Caliph Ali set the rule of fighting a war against the other Muslims within the state that challenges the power of the state, and the later Muslims accepted that rule.

<sup>24</sup> Boisard, Marcel A. 'On the Probable Influence of Islam on Western Public and International Law', 1980, *IJMES* 11 (1), 429.

<sup>25</sup> Islam Online, 'Top Islamic authority in Egypt slams Philippine hostage-takers' (15 March, 2000). <<http://www.globaltownhall.com/articles/article.cgi?num=7>> (accessed 12 April, 2018).

<sup>26</sup> Maulana Wahiduddin Khan, 'Hijacking - A Crime' (15 February 2012) <<http://www.jammu-kashmir.com/insights/insight20000215a.html>> (accessed 10 May, 2018).

<sup>27</sup> Henckaerts, Jean-Marie and Doswald-Beck, Louise. *Customary International Humanitarian Law*, (Cambridge University Press, 2005).

IHL binds the parties to treat civilians humanely all the time. It is prohibited any violence, cruel treatment, or torture, taking of a hostage, unlawful executions or any act that can cause a threat to life. The parties to a conflict are bound to respect the physical and mental integrity of the civilians, including the honour, personal rights, religious practices and convictions, as well as their customs and traditions. Islamic Law of War restricts the parties to harm the civilians and civilian property.

It is not allowed to use the local facilities without the consent of the local people, and it is necessary to make compensation for the losses caused to the civilians because of the hostilities.<sup>28</sup> The Islamic rules of humanity, set by the relevant verses of the *Qur'ān*, guide the Islamic Law of War. It is prohibited to do more harm than necessary.

“And if you punish [an enemy, O believers], punish with an equivalent of that with which you were harmed. But if you are patient - it is better for those who are patient.”<sup>29</sup>

In IHL no discrimination is made among the civilians, prisoners of war and person hors de combat on the basis of race, religious belief, or political opinion. Same is the case with the protected persons and the parties to a conflict are bound to oblige this rule.<sup>30</sup> The people affected by the armed conflicts, international and non-international conflicts, are entitled to fundamental rights and guarantees, without any discrimination.<sup>31</sup> IHL provides protection to men and women on the basis of equality, without any discrimination, the women receive the same treatment as favourable as that granted to men.<sup>32</sup> Traditionally, Islamic Law allows to take men, women, and children as prisoners of war but the killing of women and children, regardless of their religious convictions, is not allowed under any circumstances.<sup>33</sup>

Per Sunnah, the killing of any child, woman, and the elder sick person is strictly prohibited. Islam provides a respected and humanitarian way of treatment towards the prisoners of war and strictly prohibits the torturing the enemy, burning the combatants alive, mutilation and disgracing the dead bodies of the enemy soldiers.

“So, when you meet those who disbelieve [in battle], strike [their] necks until, when you have inflicted slaughter upon them, then secure their bonds, and either [confer] favour afterwards or ransom [them] until the war lays down its burdens. That [is the command]. And if Allah had willed, He could have taken vengeance upon them [Himself], but [He ordered armed struggle] to test some of you by means of others and those who are killed in the cause of Allah - never will He waste their deeds.”<sup>34</sup>

The prophet of Islam had also forbidden the practice of treachery or mutilation. *Qur'ān* says;

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<sup>28</sup> Khan, Muhsin. (tr) *Ṣaḥīḥ al-Bukhārī*. (Egypt: Muṣṭafa Al-Bābī Al-Halabī Press, 1959).

<sup>29</sup> Al-*Qur'ān*, Al-Nahl:126

<sup>30</sup> Geneva Conventions, Common Art. 2

<sup>31</sup> Geneva Conventions, Common Art. 3

<sup>32</sup> Convention Relative to the Treatment of Prisoners of War (Third Geneva Convention), 12 August 1949, 75 UNTS 135, Art. 14 and 16

<sup>33</sup> Crone, Patrica. *God's Rule: Government and Islam*. (Columbia University Press, 2004).

<sup>34</sup> Al-*Qur'ān*, Muḥammad:4

“O Prophet, say to whoever is in your hands of the captives, "If Allah knows [any] good in your hearts, He will give you [something] better than what was taken from you, and He will forgive you, and Allah is Forgiving and Merciful.”<sup>35</sup>

In both IHL and Islam, it is not allowed to conduct a further attack on the military objects that may cause loss of civilian life. *Qur'ān* clearly advises the followers to avoid conflict and tend towards peace.

“So, turn aside from them and say, "Peace" But they are going to know.”<sup>36</sup>

It is the utmost wish of the Islamic Law of War to achieve peace all the time during the conflict. It is suggested to conduct dialogue and negotiate with the other party for peace and prefer peace rather than bloodshed. The role of the third party is welcomed for mediation in this regard. Despite, having the ability to fight with your enemy, if the enemy invites you towards the fight, do not fight with them. Turn away from your enemy and call them towards peace. If the enemy is aiming to fight with you, turn away even then, instead of fighting with them turn away from them, invite them towards peace.

“And if they incline to peace, then incline to it [also] and rely upon Allah. Indeed, it is He who is the Hearing, the Knowing.”<sup>37</sup>

It is suggested that if the enemies are inclined towards peace than the followers of Islam should also incline towards peace. *Qur'ān* strictly commands its followers to not to kill anybody unlawfully because Allah has made life sacred.

“Say, "Come, I will recite what your Lord has prohibited to you. [He commands] that you do not associate anything with Him, and to parents, good treatment, and do not kill your children out of poverty; We will provide for you and them. And do not approach immoralities - what is apparent of them and what is concealed. And do not kill the soul which Allah has forbidden [to be killed] except by [legal] right. This has He instructed you that you may use reason.”<sup>38</sup>

And even the *Qur'ān* considers the murder of one person as the murder of the whole of humanity and it considers saving the life of one person as saving the whole humanity.

“Indeed, the penalty for those who wage war against Allah and His Messenger and strive upon earth [to cause] corruption is none but that they are killed or crucified or that their hands and feet be cut off from opposite sides or that they are exiled from the land. That is for them a disgrace in this world, and for them in the Hereafter is a great punishment.”<sup>39</sup>

In both IHL and Islam, a distinction is made between those taking part in hostilities and those who are not taking part. Those people who are not taking part in hostilities are considered as protected persons (civilians) and cannot be targeted through attacking, killing or molesting. There is a general agreement between both the systems that protected persons including children, women, vulnerable people, blind, physically challenged and disabled and those who are sick. The religious persons including monks,

<sup>35</sup> Al-*Qur'ān*, Al-Anfāl:70

<sup>36</sup> Al-*Qur'ān*, Az-Zukhruf:89

<sup>37</sup> Al-*Qur'ān*, Al-Anfal:61

<sup>38</sup> Al-*Qur'ān*, Al-An'ām:151

<sup>39</sup> Al-*Qur'ān*, Al-Ma'idah:33



hermits who devote their life for monasteries and cloisters, and those people who do not associate themselves with the combatants are also considered as protected persons.<sup>40</sup>

### **The possibility of Conciliation: A Myth or Reality?**

The relationship between Muslims and people of other religions has often been misunderstood by presenting the concept of offensive war. The humanitarian values of Islam are given violent interpretations by Western scholars. The conduct of Muslims, during the war, has been trying to be portrayed as general conduct of Muslims. The conduct of Muslims with others vary in war and peacetime situations. Islamic states have no problem to live in peace and harmony with the international community.<sup>41</sup> The extreme views from both the Western scholars and Islamic religious scholar seem to oppose the working International Humanitarian Law with Islam.

The conciliation between International Humanitarian Law and the Islamic Law of War is necessary to make their working possible. The parallel working of International Humanitarian Law and Islamic Law of War is not possible for the international community to be obliged, rather it would create chaos. Therefore, International Humanitarian must be accepted as only humanitarian law but with the acceptance of all traditions. The reflection of only the euro ethnic traditions will make it unacceptable for the Muslims. The respect given to Islamic traditions will make International Humanitarian Law acceptable for Muslims all over the world. For this purpose, mutual and respectful interaction between International Humanitarian Law and Islamic Law of War is needed where the International law must be given primacy.

The conciliation between both the systems is possible with the agreement of both the systems where the followers of one system must give respects to the followers of the other system, rather criticising each other. International Law, being the sole legal framework for international peace and security, has the priority over Islamic Law and Islamic law has a supportive way of the possibility of International Law. It has been a misunderstood fact that the nature of Islam is rigid and non-flexible on the matter of humanitarian values. Islamic Law of War forbids violence and other inhuman activities during wartime and sets rules and regulation for the parties involved in an armed conflict. On the other hand, Islamic Law needs to be interpreted with a renewed and modern approach to spread a peaceful message of Islamic Law to the modern world.<sup>42</sup>

The objective and purpose of the humanitarian rules of Islamic International Law are very of the objective and purpose of International Law. In fact, the principle characteristics of humanitarian rules of Islamic International Law are like International Law. The interpretation of Sharia based on these characteristics can portray the soft image of the Islamic Law of War. Muslim scholars can keep Islam as an open religion to the world by interpreting Islamic law with the help of these characteristics.<sup>43</sup>

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<sup>40</sup> Rehman, Javaid. *An Introduction to Islamic International Law: Manual on the Teaching of Islamic International Law* (UK: Warwick, Centre for Legal Education, 2008).

<sup>41</sup> Al-Zuhili, Wahbeh M. 'Islam and International Law', 2005, *IRRC* 87 (858), 269.

<sup>42</sup> An-Naim, Abdullah. 'Islamic Ambivalence to Political Violence: Islamic law and International Terrorism'. *German Yearbook of International Law*, 1988, 31 (1), 327.

<sup>43</sup> Boisard, Marcel A. 'The Conduct of Hostilities and the Protection of the Victims of Armed Conflicts in Islam'. *Annals of International Studies*, 1977, 8 (4)

**Conclusion:**

In spite of the existence of the differences between International Humanitarian Law and Islamic Law of War, both the systems aim to protect civilians in times of armed conflict. The conciliation between International Humanitarian Law and the Islamic Law of War is necessary to make the working of both the systems possible in the international community. The concepts and theories about the rival natures of both the systems need to reach an agreement where both need to respect each other. The situation, if not dealt properly, may lead to a clash of civilisations. A middle path between International Humanitarian Law and Islam can help to solve the confrontation between both the systems. They need to give respect to each other by accepting the existence of each other. This conciliation can help in avoiding the clash of civilisations and save humanitarian workers, civilians, and combatants from grave consequences. Although, the response from Muslim actors has been very positive in this regard, yet it needs to be enforced in a better way. The Muslim response invites discussions and interactions look forward towards the acceptance of secular International Humanitarian Law.