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Re: Contemporary Dilemmas in International Humanitarian Law: Exploring Global Issues in the Arab and Islamic World

Throughout much of human history, war and conflict were not subject to the law, with the notion of 'all is fair in war' taking precedence. During this period, prohibited acts or protected parties did not exist. Since its declaration, International Humanitarian Law (IHL) has been a potent instrument in the hands of the international community working to ensure the protection and dignity of individuals and communities in times of war. IHL's principle and aim is to retain a measure of humanity in the midst of conflict, emphasizing and establishing limits.

Humanitarian principles have a basis in IHL as the law not only outlines how parties to an armed conflict should conduct themselves, but also highlights the role of humanitarian agencies regarding assistance. Humanity, neutrality, impartiality, and independence act as a compass to guide any action that attempts to provide relief to millions of people affected by conflict. These principles, and the values that they entail, are the foundations and objectives of humanitarian action, and undergird its universality.

Given the current conflict dynamics taking place in our region and the everlasting necessity of IHL and adherence to humanitarian principles by humanitarian organisations, the Center for Conflict and Humanitarian Studies (CHS), the Embassy of Switzerland in Qatar and the International Committee of the Red Cross (ICRC) organised a symposium on **Contemporary Dilemmas in International Humanitarian Law: Exploring Global Issues in the Arab and Islamic World** on **Wednesday 15 September at 1800 Doha Time**.

The event was introduced by Professor Sultan Barakat and H.E. Edgar Dörig, Ambassador of Switzerland to Qatar. It brought together prominent experts of International Humanitarian Law: H.E. Peter Maurer, President, ICRC, as the keynote speaker, Dr. Helen Durham, Director of International Law and Policy, ICRC, Ms. Fatima Gailani, Afghan Government Negotiator, former President of the Afghan Red Crescent Society and Islamic Scholar, Dr. Fawzi Oussedik, Head of International Relations and International Law, Qatar Red Crescent and Dr. Omar Mekky, Regional Legal Coordinator for Middle East and North Africa, ICRC, as panelists. Many insights and analyses were reached by Professor Sultan in his moderation of the panel discussion.



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The topics of discussion included the challenges of IHL in the MENA region, women under IHL, Islam under IHL, the arming of children and their protection under IHL, and the contemporary challenges of IHL.

In a pre-recorded video message, the President of the ICRC, His Excellency Peter Maurer delivered important messages. One being the recent snowballing developments in Afghanistan, revealing not only how quickly dynamics can change but how unexpected developments and ill-preparedness can plunge a country into crises. The work that the ICRC is carrying out in Afghanistan was further touched upon, shedding light on how they are working to mitigate further suffering under the umbrella of IHL and its principles.

His Excellency justly underlined the complexity of contexts in the Arab world in which humanitarian actors have to operate under and IHL has to be upheld and implemented in, from urban warfare, protracted conflicts, terrorism and counterterrorism measures, the rise of non-state armed groups, impacts of climate change to adapting to health-related pandemics.

Moving on to Dr. Helen Durham of the ICRC, emphasis was placed on the long-standing history of IHL and its continuous development. Dr. Helen highlighted the necessary protection of women under IHL given their role in armed conflict and in the aftermath of armed conflict. In such instances, we know that the impact of conflict on women is disproportionate, placing them at the epicenter and increasing their vulnerability to violence.

Strikingly, she has shared some insights with us about women being targeted more than their counterparts, facing barriers to accessing income, their fatality rate and how certain weapons impact women to a greater degree. To this regard, IHL seeks to prohibit discrimination against women and protect women in war and support them following war.

Following this intervention was Ms. Fatima Gailani's where she spoke on Islam and IHL. In her presentation, she spoke about the link between IHL and the rules of war in Islam, making sure to emphasise that the rules of IHL were not imported into the Arab world, but were imbedded in its psyche given their importance in Islam. She



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further highlighted that IHL should be added to school curricula around the world, making sure the principles are engraved in the hearts and minds of people.

Dr. Fawzi Oussedik, Head of International Relations and International Law Department, Qatar Red Crescent, focused his intervention on child soldiers and the protection of children exploited by armed conflict under IHL. Kickstarting his intervention, Dr. Oussedik questioned whether the rise of child soldiers related to a weakness in the system itself or its mechanisms, and whether the treaties were suffering from a defect. In follow up, he stated that IHL suffers from politicisation of the law and the lack of implementation in the education system.

Continuing his intervention, he referred to the Geneva protocols in which he highlighted that these protocols do not consider children as belligerents and instead consider them as vulnerable and exploited actors in armed conflict. He then spoke of the 1989 agreement which expanded the scope of protection that have been afforded to children to cover armed conflicts as well acts of violence.

In the last part of his intervention, Dr. Oussedik stated that recruiting children as armed soldiers amounts to a war crime. Through this unfortunate phenomena of recruiting children as soldiers, we see them participate in conflict as: cooks, scouts, are subject to sexual violence, forced labour, and forced to carry out suicide missions or to clear mine fields.

In the last intervention, Dr. Omar Mekky, Regional Legal Coordinator for Middle East and North Africa, International Committee of the Red Cross, highlighted five contemporary challenges of IHL. The first phenomenon he shared was the lack of unity in realising certain resolutions geared towards protecting peace and security. He highlighted that this resulted from political polarisation and division between the five permanent members of the security council which hinders the application of IHL in the region. The second phenomenon relates to the complication of conflict, alluding to the complexity that proxy wars pose in that we increasingly see non-state armed groups as well as national armies supported by external powers through funding and armed assistance.

Thirdly, he touched upon urban warfare in which IHL is violated and civilians are directly targeted. The reason for this is the difficulty that armed groups are ultimately faced with in terms of differentiating between civilians and armed



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combatants. Fourthly, Dr. Mekky highlighted the extreme spread of non-state actors which increased in quantity more in the last seven years than the past seventy decades. In this phenomena, he underlined three problems: 1) the sensitivity of liaising with such actors to deliver humanitarian aid as some states are skeptical of such links, 2) the, often, lack of acceptance by armed groups to liaise with humanitarian actors, and instead targeting them, 3) the fact that armed groups remain committed to the Westphalian nation-state concept and reject IHL and International Law, rejecting the Geneva articles. Lastly, the definition of terrorism remains contested, making it difficult for IHL to be implemented.

In the Q&A, topics of discussion were: the use of drones and technology in armed conflict, the link between the rules of war in Islam and the rules of war in international law, citing the commands given to Muslim combatants, and the role of Switzerland in being an independent and neutral actor, respecting and supporting IHL values as well as humanitarian organisations.

An art installation curated by the Musée de l'Elysée in Lausanne, Switzerland exploring 'Humanitarian Principles Here and Now' will follow and be exhibited from **Tuesday, 21 September until Tuesday, 19 October 2021** at the Fire Station Artist in Residence in Doha.