

## Analysis of Challenges of Enforcing International Humanitarian Law in the Asymmetric War in Aleppo

Rayhan Zaki Wibowo<sup>1)</sup> & Davilla Prawidya Azaria<sup>2)</sup>

<sup>1)</sup>Faculty of Law, Universitas Pembangunan Nasional "Veteran" Jakarta, Indonesia,  
E-mail: [rayhanzakiwibowo@gmail.com](mailto:rayhanzakiwibowo@gmail.com)

<sup>2)</sup>Faculty of Law, Universitas Pembangunan Nasional "Veteran" Jakarta, Indonesia,  
E-mail: [dp.azaria@upnvj.ac.id](mailto:dp.azaria@upnvj.ac.id)

**Abstract.** *This study aims to uncover the problems that arise in asymmetric warfare, which are different from the challenges in conventional warfare. The main focus of this study is the challenges of implementing International Humanitarian Law (IHL) in the context of asymmetric warfare, involving state and non-state actors. This study identifies the challenges in implementing IHL principles, such as the principles of distinction, proportionality, and humanity that are often violated. In addition, this study also highlights global political constraints, especially the veto power in the UN Security Council and the involvement of foreign countries, which hinder the enforcement of international law. The results of the study show that although the international legal framework has been established, its application in asymmetric warfare such as in Aleppo requires in-depth evaluation and strengthening of fairer and more independent accountability mechanisms.*

**Keywords:** *Aleppo, Asymmetric; Humanitarian; International; Warfare.*

### 1. Introduction

The Law of Armed Conflict is a set of rules whose primary purpose is to protect individuals outside of direct involvement in armed conflict and to regulate the tactics and strategies of combat or war (Annisa, 2023). International Humanitarian Law has been codified in many international treaties, such as the Geneva Convention 1949 and other protocols. Humanitarian Law embraces all global legal provisions that aim to protect parties who are greatly affected when an armed conflict occurs (Sulistia, 2021). Despite clear regulations and full support from countries around the world, non-compliance with the laws of war is still common in wars.

Violations of International Humanitarian Law can include various forms of crimes or violations, such as attacks on civilians, attacks on health assistance such as hospitals and medical personnel, the use of prohibited weapons such as biological weapons, torture of prisoners of war, and obstruction of humanitarian access (Wahyuni, 2023). Over the past decades, there has been a surge in the number of armed conflicts between states, internal conflicts and civil wars, which complicate the implementation of humanitarian law and exacerbate the impact on civilian populations, which may be due to the lack of effective enforcement of humanitarian law.

The lack of effective enforcement mechanisms and low levels of understanding are also major causes of repeated violations of Humanitarian Law. In addition, perpetrators of violations of Humanitarian Law often try to prove that their actions are their right to resist and not a violation of Humanitarian Law (Haidarullah, 2023). There are also challenges in prosecuting perpetrators, especially when violations occur in countries with weak legal systems or powerful countries that refuse to submit to the International Court. Although institutions such as the International Criminal Court have been established to address international crimes and violations, political and legal obstacles remain significant challenges (Haidarullah, 2023).

One example of a violation of humanitarian law is the incident that occurred during the conflict in Aleppo, Syria in 2012 to 2016. In this conflict, the parties involved were not only military forces, but were also marked by the use of asymmetric warfare strategies, namely the Syrian government opposition group, which in terms of military strength and war methods was weaker than the Syrian government coalition (Milevski, 2023). Asymmetric warfare is a conflict in which the parties involved have vastly different or unequal strengths, resources, and capabilities (Heintschel, n.d.). Imbalance in a conflict can take several forms such as party participation, technology, norms, doctrine or morals (Schmitt, n.d.). In other words, every war always has a sign of at least one of these forms of imbalance (Heintschel, n.d.). In this case, the party with weaker power tends to use non-conventional warfare techniques, such as guerrilla warfare, sabotage, terrorism, and psychological warfare (Toni Pfanner, 2005).

The Aleppo tragedy involved several parties, namely the Syrian Government Coalition such as the Syrian Armed Forces, Hezbollah, Iranian Government Forces, and Russia with the Syrian government opposition such as the Free Syrian Army, Aleppo Military Council, ISIS, Levant Front (Jabhat al-Shamiah), and the Syrian Islamic Front (Bandarin, 2022). The violations that occurred in this conflict include all parties involved, starting with the Syrian government coalition which carried out attacks on civilian infrastructure such as hospitals and schools, and the use of prohibited weapons such as Cluster Munitions, while the opposition to the Syrian

government committed violations such as the destruction of cultural property and executions of civilians (Human Rights Council, 2017).

The Aleppo tragedy shows how vulnerable the implementation of humanitarian law is in complex armed conflict situations, especially when the countries involved in the conflict have geopolitical interests. The use of chemical weapons, attacks on medical facilities, and the destruction of other infrastructure during the conflict have drawn global condemnation (Haidarullah, 2023).

This study focuses on the analysis of the challenges of humanitarian law enforcement in asymmetric warfare events. The case that occurred in Aleppo is a clear example of the occurrence of asymmetric warfare that includes governmental and non-governmental entities, this can cause the implementation of the principles of global conflict law to become complex. This study aims to uncover the problems that arise in asymmetric warfare that are different from the challenges in conventional warfare.

## **2. Research Methods**

The type of study that the author will apply in this study is included in the normative legal study which uses document studies through indirect sources such as legal provisions, legal ideas, and previous literature (Wahyuni, 2022). The normative legal research method is a type of research that uses library research that focuses on document and literature studies to analyze legal norm rules, legal ideas, and appropriate principles on how to enforce and implement a legal aspect regulation of each legal event (Mahmud, 2011).

The legislative method (Statute Approach) is also used in this writing, this allows the author to use applicable laws and regulations as the basis for this research (Anam, 2017). So that in this research the author is able to analyze and study the regulations regarding applicable International Humanitarian Law. The method of information acquisition in this study uses a literature review that relies on sources of available information (Purwono, n.d.). This approach is commonly applied in many branches of science, such as law, to collect and analyze data relevant to the research topic, such as journals, books, articles, and the internet. The data evaluation applied in this research is an analysis of legal documents, which aims to evaluate the implementation of humanitarian principles during war and asymmetric warfare. In this study, various important international regulations and agreements such as the Geneva Convention and its Additional Protocols are used. This analysis will analyze the Aleppo Tragedy incident with the application of International Humanitarian Law.

## **3. Results and Discussion**

### **3.1. The Challenge of Enforcing IHL Against Asymmetric Warfare that Occurred in the Aleppo Tragedy**

IHL is established to control the actions of parties in war, not only combatants, but non-combatants such as civilians and medical personnel are also protected, by ensuring that the atrocities of war do not affect those who are not actively participating in the ongoing war (Jance & Tiri, 2024, p. 151). In the context of the asymmetric warfare taking place in Aleppo, where state and non-state actors are involved in an armed conflict, the application of IHL faces various structural and operational challenges.

IHL regulations are contained in agreements, treaties and other agreements that have been agreed to by the parties and must be complied with during armed conflicts involving two or more parties (Jance & Tiri, 2024, p. 152). Therefore, compliance with IHL is not only a moral obligation, but also a legal responsibility that must be upheld by all parties in the conflict. If there is a violation of the established rules, a mechanism is needed to enforce accountability and provide appropriate sanctions to the perpetrators of the violation (Alwheebe, 2021).

One of the most important legal obligations arising from violations of IHL rules is to ensure accountability for the perpetrators of such violations. Respect for the rule of law requires that all parties must be subject to the laws promulgated. This situation also requires measures to ensure compliance with legal norms, equality before the law, legal accountability, implementative justice, decentralization of power, public involvement, legal guarantees, and transparency of legal procedures (United Nations, 2004). In international criminal law, responsibility is usually individual. However, state agents enjoy immunity, except in cases relating to war crimes, serious crimes and mass murder. A special type of responsibility applies to states when they violate their international obligations towards other states. State responsibility arises from the actions of their agents, primarily armed forces, and individuals or groups acting under their effective control. The International Criminal Court (ICC) has the authority to investigate these situations and to require responsible states to pay compensation (Alwheebe, 2021). Although International Humanitarian Law has established a clear legal framework, its implementation in the field is often faced with complex challenges. In the context of asymmetric warfare such as in Aleppo, these challenges are not only legal and jurisdictional, but also include political, socio-cultural dimensions, as well as the limited resources of states and international institutions in upholding justice effectively.

#### - Legal Challenges and Jurisdiction

Academics and legal professionals stress that there are fundamental challenges in the application of international human rights law, particularly when faced with the complexities of jurisdiction and extradition procedures. One of the main obstacles that often arises is when potential perpetrators of gross human rights violations are outside the jurisdiction of the national jurisdiction seeking to prosecute them. In such situations,

the law enforcement process becomes much more complicated, particularly in the case of the application of international arrest warrants, which often face logistical and administrative obstacles.

In addition, not all countries have adequate legal mechanisms to handle such cases, either in the form of domestic regulations that comply with international standards or in the institutional readiness to carry out fair and effective judicial processes. Even if a country has a legal system that allows for the prosecution of perpetrators of international crimes, other factors such as political will often act as obstacles. Some countries may be reluctant to cooperate in extradition or prosecution for diplomatic, economic or specific national interest reasons. As a result, despite the existence of various international legal instruments designed to enforce accountability for perpetrators of serious crimes, their implementation on the ground remains a complex challenge and requires a multidimensional approach (Lubis, et al, 2023).

#### - Political and Geopolitical Challenges

Experts have highlighted that political considerations play a significant role in the application of International Human Rights Law. Geopolitical interests often influence how open a country is to collaborating with global justice institutions. In many cases, the decision to extradite or prosecute perpetrators of human rights crimes does not only depend on legal aspects, but also affects broader national relations and interests.

The balance between diplomatic objectives and the pursuit of justice creates complex challenges in international law enforcement efforts. Some states may be reluctant to take legal action against certain individuals for fear of political or economic consequences. In addition, pressure from global actors with strategic interests often complicates global cooperation in combating gross human rights violations. As a result, the implementation of Global rules on human rights not only face legal and administrative obstacles, but also political dynamics that influence the effectiveness of the international justice system (Lubis, et al, 2023).

#### - Culture and Society

Social and cultural elements are very important in the implementation of global humanitarian norms, especially in situations of armed conflict. Norms, customs, and traditions that develop in a community are often not in line with the principles contained in international humanitarian law, the main purpose of which is to protect victims of war and limit the methods used in a war or conflict. The most prominent basic principle in IHL is chivalry, which emphasizes that parties to a conflict must act with respect

for their opponents, avoid cunning or betrayal of trust, and ensure that violence is not carried out excessively or without a legitimate purpose Baraja, et al, n. d.).

However, in practice, this principle can clash with local cultural values that may have different views on honor, fighting, or the treatment of enemies. For example, in some communities, retaliation or other traditional practices may be considered moral obligations that conflict with the limits set out in international humanitarian law. This inconsistency can create obstacles to its application, especially when local practices take precedence over universal standards upheld by international law.

- Resources and capacity

Research shows structural and capacity barriers to enforcing global human rights norms. Academics and practitioners underscore the importance of funding and protections for investigations and trials. Post-war recovery requires significant investment in legal and justice systems (Lubis, et al, 2023).

This challenge is also relevant in the context of international humanitarian law, especially in relation to the principle of state responsibility which emphasizes that governments are obliged to be accountable for the actions of their subordinates and must take concrete steps to ensure accountability (Masa'l, et al, 2020). However, in many cases, resource constraints hamper the state's ability to conduct effective investigations, prosecute perpetrators, and provide reparations to victims.

Thus, although international humanitarian law has set clear standards regarding the protection of individuals in armed conflict, its implementation often depends on the readiness of domestic legal institutions and international support in providing adequate resources.

### **3.2. Application of International Humanitarian Law in the Asymmetric War that occurred in Aleppo**

International Humanitarian Law, which aims to limit the impact of armed conflict, is mandatory for all actors involved in the conflict (Melzer, 2019). In asymmetric war situations, the application of this law becomes particularly challenging due to the significant disparity in power between the parties to the conflict, as well as the often unclear command structure of non-state armed groups.

IHL regulates principles that aim to limit suffering in armed conflict. The principles of IHL that underlie its application are the principles of distinction, proportionality, and humanity (Auri, n.d.). The principle of distinction requires all actors in a conflict to distinguish between combatants and civilians, and the parties' authority



to participate in hostilities on the battlefield. If someone falls into the category of a combatant, it is important to understand that his primary task is to carry out combat actions, including wounding, destroying, or even taking life if necessary in a military context (Abnin, K., et al, 2021). The principle of proportionality is a principle that prohibits military action that is deemed to have the potential to cause death to civilians, injury to civilians, destruction of civilian assets, or a combination of these damages (Melzer, 2019, p. 110). Next, the principle of humanity aims to provide assistance without discrimination to victims of war. In its implementation, parties involved in the conflict are required to uphold humanitarian values and are prohibited from carrying out attacks that create serious injury or unnecessary suffering (Tani, 2019).

However, in practice, these principles are often seriously challenged in the conflict in Aleppo. Attacks on civilian settlements, the use of barrel bombs by government forces, sieges of areas, and attacks on health and education facilities show that the principles of distinction and proportionality are still often ignored (Human Rights Council, 2017, p. 6-7). Syrian opposition groups are also accused of committing violations such as using civilians as human “shields” and indiscriminate rocket attacks on areas still controlled by the government (UN Human Rights Council, 2017). These violations caused enormous harm to civilians, including deaths, injuries, and mass displacement, creating a large-scale humanitarian crisis.

In the context of international law, the Rome Statute of 1998 provides a very clear basis for assessing and prosecuting violations of IHL as war crimes or crimes against humanity. Articles 7 and 8 of the Rome Statute stipulate the types of crimes that fall within the jurisdiction of the International Criminal Court (ICC), such as murder, slavery, torture, and large-scale destruction (Rome Statute of the International Criminal Court, 1998, Art. 7-8). Although Syria is not a state party to the Rome Statute, international legal mechanisms still allow for investigations and prosecutions, especially through referrals from the UN Security Council. Unfortunately, this process is often hampered by global political dynamics, especially the veto power of major powers such as Russia, which is a close ally of the Syrian government.

The involvement of foreign states in the conflict in Aleppo complicates the application and enforcement of IHL. Russia and Iran, as the main supporters of the Syrian government, play a major role in the military operations carried out in the Aleppo region (Ergun, 2018). This direct and indirect involvement raises questions about state accountability for military actions that result in violations of international law. However, until now there has been no adequate and independent system to ensure accountability for all parties involved, including formal and informal elements. In addition, efforts to bring the Aleppo case to the International Criminal Court continue to be hampered by the differing interests of

the five permanent states on the UN Security Council, which makes the justice process highly political (Setiyono, 2020, p. 90-91).

The Aleppo conflict shows how complex the application of International Humanitarian Law is in modern asymmetric warfare. On the one hand, the legal framework is quite clear and binding, both for states and non-state actors. However, on the other hand, the implementation and enforcement of the law are greatly influenced by global political realities. This creates a gap between legal norms and the reality on the ground, where civilian victims are the most disadvantaged. Therefore, a comprehensive evaluation of the effectiveness of the current international legal system is needed, while also encouraging the strengthening of fairer and more independent accountability mechanisms for the protection of humanity in the future.

#### **4. Conclusion**

The asymmetric warfare in Aleppo illustrates significant challenges in the enforcement of International Humanitarian Law (IHL), even though the IHL framework was designed to protect victims and limit the methods of warfare. The disparity in power between the parties to the conflict means that the basic principles of IHL are often not implemented properly. The process of law enforcement is also hampered by legal and political aspects, including jurisdictional difficulties, the unpreparedness of domestic legal systems, and reliance on international mechanisms that are often politicized, such as the veto power in the UN Security Council that blocks proceedings at the International Criminal Court. In addition, socio-cultural factors, such as local norms that conflict with universal principles of IHL, also add to the complexity, coupled with limited resources and capacity of legal institutions in countries involved in the conflict. The Aleppo conflict demonstrates the gap between ideal legal norms and the reality on the ground, underscoring the importance of a comprehensive approach and reform in international law enforcement to be more adaptive, responsive, and effective in protecting civilian victims.

#### **5. References**

##### **Journals:**

- Alwheebe, E. A. S. (2021). The Role of the International Criminal Court in the Implementation of the International Humanitarian Law: An Applied Study. *Northern Border University*.
- Anggoro Prakoso, H. A., dkk. (2023). Pelanggaran Hukum Humaniter Internasional atas Serangan Udara Koalisi Negara-Negara Arab dalam Konflik Bersenjata. *Universitas Diponegoro*.  
<https://ejournal3.undip.ac.id/index.php/dlr/article/view/29874/25878>
- Heintschel von Heinegg, W. (n.d.). Asymmetric Warfare: How to Respond? *International Law Studies*, 87.



- Kara Abnin, K., Anwar, A., & Rehatta, V. J. (2021). *Pengaturan Prinsip Perbedaan dan Penerapannya dalam Konflik Armenia-Azerbaijan*. Fakultas Hukum Universitas Pattimura.
- Lubis, A. F., dkk. (2023). Peran dan Tantangan Implementasi Hukum Internasional tentang Hak Asasi Manusia dalam Penanganan Kejahatan Terhadap Kemanusiaan.
- Masa'I, F., dkk. (2020). Tanggung Jawab Negara Terhadap Sampah Ruang Angkasa Menurut Hukum Internasional. *Sekolah Tinggi Ilmu Hukum Papua*.
- Pfanner, T. (2005). Asymmetrical Warfare from the Perspective of Humanitarian Law and Humanitarian Actions. *International Review of the Red Cross*.
- Schmitt, M. N. (n.d.). Asymmetrical Warfare and International Humanitarian Law. In *International Humanitarian Law Facing New Challenges*.
- Tani, Q. C. F. (2019). *Kajian Hukum Humaniter dan HAM Mengenai Pelanggaran terhadap Prinsip-Prinsip Kemanusiaan Tawanan Perang*. Universitas Sam Ratulangi.
- Yance, K., & Tiri, E. (2024). Customary International Humanitarian Law and Human Rights in Armed Conflicts. *University Durres, Albania*.

**Books:**

- Abu, Y. (2010). *Aspek-Aspek Penelitian Hukum: Hukum Islam*. Pustaka Pelajar.
- Bandarin, F. (2022). *The Destruction of Aleppo: The Impact of the Syrian War on a World Heritage City*.
- Marzuki, P. M. (2007). *Penelitian Hukum*. Penerbit Kencana.
- Melzer, N. (2019). *Hukum Humaniter Internasional: Sebuah Pengantar Komprehensif*. International Committee of the Red Cross (ICRC).  
[https://blogs.icrc.org/indonesia/wp-content/uploads/sites/97/2021/08/4231\\_IDN\\_IHL-Comprehensive\\_Rev-3.pdf](https://blogs.icrc.org/indonesia/wp-content/uploads/sites/97/2021/08/4231_IDN_IHL-Comprehensive_Rev-3.pdf)
- International Criminal Court. (1998). *Rome Statute of the International Criminal Court*. Articles 7–8.
- Setiyono, J. (2020). *Peradilan internasional atas kejahatan HAM berat* (pp. 90–91). Pustaka Magister
- United Nations. (2004). *Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*.
- United Nations. (n.d.). *Convention on Cluster Munitions*.

**Website:**

- American Red Cross. (2011). *Summary of the Geneva Conventions of 1949 and Their Additional Protocols*.  
[https://www.redcross.org/content/dam/redcross/atg/PDF\\_s/International\\_Services/International\\_Humanitarian\\_Law/IHL\\_SummaryGenevaConv.pdf](https://www.redcross.org/content/dam/redcross/atg/PDF_s/International_Services/International_Humanitarian_Law/IHL_SummaryGenevaConv.pdf)

- Annisa. (2023). *Hukum Humaniter Internasional: Pengertian, Tujuan dan Prinsip*. Universitas Muhammadiyah Sumatera Utara. <https://fahum.umsu.ac.id/hukum-humaniter-internasional-pengertian-tujuan-dan-prinsip/>
- Ergun, D. (2018). *External actors and VNSAs: An analysis of the United States, Russia, ISIS, and PYD/YPG*. SETA Foundation
- Human Rights Council. (2017). *Human rights abuses and international humanitarian law violations in the Syrian Arab Republic, 21 July 2016–28 February 2017* (pp. 6–11).
- Prakoso, H. A., dkk. (2023). *Pelanggaran Hukum Humaniter Internasional atas Serangan Udara Koalisi Negara-Negara Arab dalam Konflik Bersenjata*. Universitas Diponegoro. <https://ejournal3.undip.ac.id/index.php/dlr/article/view/29874/25878>
- Purwono. (n.d.). Studi Kepustakaan. *Universitas Gadjah Mada*.
- Renata Christa Auri. (n.d.). Pengertian, Asas, dan Prinsip Hukum Humaniter Internasional. *HukumOnline.com*. <https://www.hukumonline.com/klinik/a/hukum-humaniter-internasional-lt62e8ebdd0a7c4/>
- Saiful Anam. (2017). Pendekatan Perundang-Undangan (Statute Approach) Dalam Penelitian Hukum. *Saiful Anam & Partners*.
- Wahyuni, W. (2022). Objek Penelitian Hukum Normatif untuk Tugas Akhir. *HukumOnline.com*. <https://www.hukumonline.com/berita/a/objek-penelitian-hukum-normatif-untuk-tugas-akhir-lt63a46376c6f72/>
- Wahyuni, W. (2023). Objek yang Tidak Boleh Diserang dalam Perang Berdasarkan Hukum Humaniter Internasional. *HukumOnline.com*. <https://www.hukumonline.com/berita/a/objek-yang-tidak-boleh-diserang-dalam-perang-berdasarkan-hukum-humaniter-internasional-lt65364c1b0e1e1/>
- United Nations Human Rights Council. (2017, March). *Aleppo aerial campaign deliberately targeted hospitals and humanitarian convoy amounting to war crimes, while armed groups' indiscriminate shelling terrorised civilians – UN Commission*. <https://www.ohchr.org/en/press-releases/2017/03/aleppo-aerial-campaign-deliberately-targeted-hospitals-and-humanitarian>