



International Journal of Multidisciplinary Research and Growth Evaluation.

The International Humanitarian Law and AI Deployment in Afghanistan's War: A Just War Theory (2001-2021)

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Article Info

ISSN (online): 2582-7138

Volume: 06

Issue: 01

January-February 2025

Received: 09-12-2024

Accepted: 10-01-2025

Page No: 1193-1200

Abstract

The aim of this study is to find a balance between the widespread use of artificial intelligence (AI) and the elucidation of the just theory of war with international human rights principles. The study examines the expansion of airstrikes and drones by US forces in the war in Afghanistan, taking into account human rights, the rules of war, and the need to protect civilians. The study is based on a qualitative analysis, in which the rules of war, international human rights, and the use of artificial intelligence are analyzed. In addition to a review of existing literature and legal documents, reports on the impact of drone strikes in Afghanistan were evaluated. The study shows that drone strikes based on artificial intelligence have often increased the number of civilian casualties, which is in conflict with international law and the rules of war. The widespread use of artificial intelligence on the battlefield has created challenges in upholding the principles of human rights, which is contrary to the requirements of the just theory. The international community's efforts should focus on reassessing the impact of drone strikes and establishing stricter rules of engagement, especially for the protection of civilians.

DOI: <https://doi.org/10.54660.IJMRGE.2025.6.1.1193-1200>

Keywords: Afghan War, AI, International Humanitarian Law, Just War Theory, Drone Strike

Introduction

Over the past two decades, Afghanistan has been the center of protracted wars and conflicts. The use of advanced technologies, especially artificial intelligence (AI), in this war has brought about a significant change in war strategies. Using drones, surveillance systems, and other advanced tools has paved the way for new approaches on the battlefield. International Humanitarian Law (IHL) guarantees the protection of civilians during armed war, respect for human rights, and adherence to the rules of war. The use of AI tools during the war in Afghanistan raises questions regarding compliance with or violation of IHL and Just War Theory, which require research and analysis. The importance of this topic lies in the fact that it is a valuable step in filling the academic gap in the field of IHL and AI. This research provides international institutions with new approaches and recommendations for improving IHL frameworks. Afghanistan is an exceptional case with unique experiences of war that are of particular importance for learning about and applying international law. Furthermore, the use of AI technology during war is initiating and developing new debates in politics, ethics, and international law. The purpose of this study is to analyze in depth the IHL and Just War Theory aspects of the use of artificial intelligence tools during the Afghan war. The study shows the use of AI within the framework of IHL and Just War Theory. In addition, the impact of AI tools on the protection of civilians and the humanitarian aspect of war has been studied. This study considers the experiences of the Afghan war to be valuable for the reform of international law. In addition, the legal and ethical controversies of the use of AI technology have been examined to present a comprehensive IHL framework for this technology. With the help of this study, it has been determined how the use of AI tools during the Afghan war is consistent with the principles of IHL and Just War Theory and in which cases these principles have been violated. What new lessons does the Afghan war offer in IHL, and how can these lessons inform the development and

improvement of IHL frameworks for the protection of civilians during war? The selection of topic is important because the use of AI tools in war opens up a new chapter in legal and ethical debates. The Afghan war has unique characteristics for the analysis of international humanitarian law, such as the use of advanced technologies, the impact on the lives of civilians, and the challenges of applying international law in war. This topic offers new avenues for the development of IHL that are useful for protecting the human aspects of war. This research has the potential to have significant implications for international institutions, researchers, and victims of war. Furthermore, the Afghan war is considered an invaluable resource for developing new approaches and reforms to international law.

Overview of the Afghan War (2001-2021)

From 2002 to 2021, Afghanistan was engaged in a long and complex war. The war involved various parties and international actors, with wide-ranging implications for security, human rights, and international relations. The conflict began during the Taliban regime and took on a new form with the intervention of the United States and NATO forces at the end of 2001. After the fall of the Taliban regime, the Afghan government was formed under the auspices of international support, but the root causes of the war and the Taliban's resistance continued. In 2001, following the terrorist attacks of September 11, the United States and the NATO coalition launched a military intervention in Afghanistan ^[1]. The intervention toppled the Taliban government in Afghanistan, but the war continued. The Taliban found their own ways to resist and expanded their presence in various parts of Afghanistan. The Taliban resistance was a major component of the Afghan war from 2001 to 2021. During the war, international forces made efforts to ensure security and stability, particularly in Afghanistan's reconstruction and development of government institutions. Although government-building and reconstruction programs were implemented, these efforts remained limited due to the expansion of the war against the Taliban and the insecurity in the region. Throughout the war, US and NATO forces conducted operations against the Taliban and terrorist networks using unmanned aerial vehicles (drones) and smart devices ^[2]. This technology changed the tactics of war and improved the effectiveness of many military operations. However, it also posed significant challenges in terms of civilian casualties, human rights violations, and the implementation of international law. In August 2020, a historic agreement was signed between the United States and the Taliban, in which American forces committed to withdrawing from Afghanistan ^[3]. This agreement began the process of international forces withdrawing from Afghan soil, and finally in 2021, the Taliban launched their final offensive against the Afghan government, capturing all of Afghanistan's provinces and Kabul in a matter of months. The war in Afghanistan from 2001 to 2021 had a devastating impact. Human rights violations, atrocities against civilians, massive displacement, and the Afghan economy and society have suffered from fear,

and Protocol I, Article 75, all human beings, not taking part in hostilities, have the right to be treated with respect and dignity, and to be free from torture, cruel, inhuman or degrading treatment or punishment ^[4]. The ill-treatment of prisoners, particularly in Guantanamo and Bagram prisons, is a clear violation of this principle. In addition, physical and psychological violence against civilians is contrary to the principles of IHL. Protocol I, Article 52, Civilian institutions, such as schools, hospitals, and water and electricity installations, must be protected from attack ^[4]. Healthcare facilities and educational institutions have been targeted by the war, which is a clear violation of humanitarian law. Protocol I, Article 77, Children shall be particularly protected, and special attention shall be paid to their survival, education, and development ^[5]. The victimization of children during the war, the restrictions on their access to school, and the use of children as combatants were clear violations of these principles. Protocol I, Article 35 (3), Means and methods of warfare shall not be such as to cause serious or long-term damage to the environment ^[6]. Protection of the environment during conflicts is essential to ensure that human life and living systems are not adversely affected. The war has also created serious threats to international security in the region, in particular the spread of terrorism and extremism. Thus, the war in Afghanistan has been a major challenge not only for the people of this country but also for the international community. The analysis of this war is a valuable topic for international humanitarian law and the principles of war. The war in Afghanistan is a major international tragedy in terms of human toll, not only devastating the lives of Afghans but also creating lasting instability in the region. More than 432,000 civilians have been killed in conflict since 2001. The vast majority of this is due to the intensity and duration of the conflict, which has claimed both direct and indirect civilian casualties. This figure is a stark illustration of the scale of the conflict's devastating impact and the human rights violations it has inflicted ^[7]. The UNAMA's 2021 mid-year report shows that civilian casualties increased by 47 percent compared to 2020, with 1,659 people killed and 3,524 injured. This is another illustration of the dire situation for civilians during the war ^[8]. During the 2001 invasion, joint operations by the Northern Alliance and US forces killed at least 2,375 civilians in the first year ^[9]. This incident highlights the failure of international forces' strategies in the early stages of the war and their lack of concern for the lives of civilians. These figures show that war not only causes casualties to warring parties, but civilians are its greatest victims. This situation raises a major moral and legal question for the international community: how can the safety of civilians be guaranteed during wars? This tragedy of war makes it clear that such crises can only be prevented through peace. The weakness of international efforts to end the war and the harm of continuing wars should be a great lesson for future

¹ Hanggarini, Sambuaga, and Anwar, "A History of the Afghan War (2001-2021) from a Defense Diplomacy Perspective."

² Leaning, "Was the Afghan Conflict a Just War?"

³ Imranullah and Hakimuddin, "Strategic Interests and Geopolitical Considerations."

⁴ Protocol Additional to the Geneva Conventions 1977, Protocol I, article 52..

⁵ Protocol Additional to the Geneva Conventions 1977, Protocol I, article 77.

⁶ Protocol Additional to the Geneva Conventions 1977, Protocol I, article 35(3).

⁷ Human Costs | Costs of War."

⁸ Civilian Casualties Set to Hit Unprecedented Highs in 2021 Unless Urgent Action to Stem Violence – UN Report | UNAMA."

⁹ Jones, "40% of All Civilian Casualties from Airstrikes in Afghanistan – Almost 1,600 – in the Last ve Years Were Children."

generations. The war in Afghanistan is a long-running and painful tragedy in terms of human casualties, with a staggering toll on civilian lives. The Watson Institute reports that 13,703 Afghan civilians were killed in the first decade of the war, and the number of wounded is estimated to be at least twice that [10]. These figures paint a clear picture of the consequences of the war, showing peaks and troughs in violence each year. In the early years of the war, from 2002 to 2004, civilian casualties were low, but they rose again in 2005 and exceeded 2492 for the first time in 2009. Given this rate of increase, it is clear that the war has become increasingly bloody over time [11]. In 2014, when foreign forces withdrew from direct combat and focused solely on training Afghan forces, there was an expectation that violence would subside. But this was not enough to end the war, and civilian casualties continued to rise. From 2015 to 2020, the number of civilian deaths each year exceeded 3,000, reflecting the continuing conflict and violence in the region [12]. These figures reveal the long-term impact of the war and raise the question of how much time and resources have been wasted on this bloody tragedy in the name of war. Civilians, who should have been protected during the war, were the greatest victims of this conflict. The consequences of this war have drawn global attention to the need for peace and demonstrate that the continuation of war causes irreparable harm to humanity. Figures released by the Bureau of Investigative Journalism (BIJ) paint a stark and disturbing picture of the human cost of drone strikes. Between 2002 and 2020, between 10,000 and 17,000 people were reported killed in US strikes in countries such as Afghanistan, Pakistan, Somalia, and Yemen, of which 800 to 1,750 were civilians. According to the BIJ, the number of US airstrikes in Afghanistan has reached 13,074 as of 2021 [13]. This number reflects the length of the war and the increase in US air operations, which have resulted in a large number of deaths and injuries to Afghan civilians and other war participants. The impact of these attacks does not end there, but rather has a major impact on the ongoing war and the security and stability of the region. Since the beginning of the war, the number of civilian casualties has increased with the expansion of such operations by US forces, and has become a major concern for the Afghan people and the international community. According to IHL and the theory of just war, the use of artificial intelligence, such as drone strikes, in warfare by the US in Afghanistan is a violation of these principles and theories. According to these principles, civilian populations should be protected during combat operations and unnecessary casualties should be avoided. However, the widespread use of drone strikes often results in the killing and injury of civilians, which is considered a violation of international human rights and the principles of war.

Overview of international humanitarian law (IHL)

International Humanitarian Law (IHL) is the body of laws and principles that guarantee the protection of human rights in times of war. These laws are designed to protect civilians,

combatants, and prisoners of war during hostilities. The history of IHL begins with the earliest humanitarian principles, but the development and consolidation of these laws on an international scale began in the mid-1900s [14]. An important step in the development of IHL dates back to the 1864 Swiss Convention, which was adopted by the International Committee of the Red Cross and established basic principles for the protection of the wounded and sick. The Geneva Conventions, adopted between 1849 and 1949, form the basis of IHL.¹⁴ These conventions set out the basic principles for the protection of human rights in times of war. Subsequently, in 1977, Additional Protocols to the Geneva Conventions were adopted, which added new aspects to IHL and addressed the circumstances of modern warfare [15]. There are several fundamental principles of international humanitarian law that form the basis of the laws of war. These principles are essential for the protection of human rights and security during hostilities. A distinction must be made during war between civilians and military objectives. Only military objectives should be targeted, and civilians should be protected from attack. Any attack in war must be necessary for the purpose and must not cause excessive harm to civilians or property. That is, the harm caused by war must be proportionate to the military advantage gained. Only those measures that are necessary for the conduct of the war should be taken. This principle prohibits any action that would cause unnecessary harm or violation. This principle of war requires full respect and dignity for all human beings. The aim is to protect all human beings from cruelty and suffering during war [16]. The aim of IHL is to protect the human rights of all parties to war. The broad demands of this law are seen in the following areas: The primary aim of IHL is to protect civilians during war. According to this law, civilians must be protected from the harm of war and non-military targets must not be attacked. There are also broad protection principles of IHL for combatants. Combatants who act in accordance with the rules of war and are captured are entitled to protection and reasonable treatment [16]. According to IHL, any combatant captured during war must be treated humanely and all human rights must be respected. They must be protected from cruelty and torture in the event of a state of deprivation. With the development of modern warfare, IHL is facing a number of new challenges. The development of new technologies such as drones, artificial intelligence, cyber warfare, and other advanced tools has created new legal and ethical challenges for IHL. Using drones and artificial intelligence, combatants can strike enemy targets without endangering themselves or their forces [16]. However, these technologies can be dangerous for civilians and innocent people. Through cyber-attacks, wars can damage critical state infrastructure, such as power grids, banks, and government agencies, at great expense. This also presents a new challenge to IHL in that it is necessary to take measures to minimize civilian casualties. The development of these technologies increases the risk of violations of the principles of IHL. The application of laws to protect combatants and civilians in the war zone has become

¹⁰ Saif, "Afghanistan: 47,600 Civilians Killed in 20 Years of Deadly War."

¹¹ Civilian Casualties Set to Hit Unprecedented Highs in 2021 Unless Urgent Action to Stem Violence – UN Report | UNAMA."

¹² Jones, "40% of All Civilian Casualties from Airstrikes in Afghanistan – Almost 1,600 – in the Last ve Years Were Children."

¹³ Saif, "Afghanistan: 47,600 Civilians Killed in 20 Years of Deadly War."

¹⁴ Shaw, "Geneva Conventions | International Humanitarian Law, Protections & History | Britannica."

¹⁵ Krasnici *et al.*, "Customary Sources of International Humanitarian Law, Geneva Conventions and Their Relationship with the Second Additional Protocol of the Geneva Conventions of 1949 Relating to the Protection of Victims in the Non- International Armed Conflicts."

¹⁶ Krasnici *et al.*, "Customary Sources of International Humanitarian Law, Geneva Conventions and Their Relationship with the Second Additional Protocol of the Geneva Conventions of 1949 Relating to the Protection of Victims in the Non- International Armed Conflicts."

increasingly complex with the use of these new technologies. Thus, the need for research into the identification of new technologies for international humanitarian law and their effective application has increased.

Artificial intelligence and its role in war

Artificial Intelligence (AI) offers new opportunities for technological advancement and effectiveness on the battlefield, but it raises many questions about its compatibility with the principles and rules of international humanitarian law (IHL). The 1977 Protocols to the Geneva Conventions provide a basic framework for the use of AI in armed conflict. Protocol I, Article 48, Parties are obliged to distinguish military objectives from civilians and civilian objects^[17]. AI systems such as drones or autonomous weapons must distinguish between military objectives and civilians. If AI targets civilians due to inaccurate information or limited recognition, this is a clear violation of IHL. Protocol I, Article 51, Civilians must be protected from direct attacks. AI-based weapons must be designed and controlled to prevent harm to civilians^[18]. If AI operates autonomously on the battlefield, humans must monitor the legitimacy of those operations. Protocol I, Article 57, in times of conflict, every precaution must be taken to minimize harm to civilians^[19]. AI devices must be programmed to take into account the precautionary principle in planning and conducting attacks. AI autonomy in warfare must be balanced by human supervision and intervention. Protocol I, Article 51(5), any attack that causes disproportionate harm to civilians in relation to the military advantage sought is prohibited^[20]. AI systems that make decisions on the battlefield should be able to analyze the proportionality of civilian casualties. If AI does not take into account the ethics of war and humanitarian law, its use is in conflict with IHL. Protocol I, Article 36, before introducing any new weapon or technique, the states concerned must ensure that it complies with the principles of IHL^[21]. Testing of AI weapons should be carried out in accordance with the principles of the Geneva Conventions. The presence of human oversight ensures that AI systems do not exceed legal and ethical limits during hostilities. Protocol I, Article 75, all people have the right to human dignity in times of war, and AI devices must protect these rights^[21]. AI weapons should be designed so as not to violate human dignity in the face of prisoners of war and other combatants. The use of AI tools to commit torture and inhumane treatment is a clear violation of IHL. Protocol I, Article 35 (3), Equipment's of war must not cause long-term environmental damage. AI tools used in the field of warfare must take into account the principles of environmental sustainability^[22]. Artificial intelligence offers new ways to increase effectiveness on the battlefield, but its use must be consistent with the 1977 Geneva Conventions. The principles of distinction, precaution, and proportionality must underpin the

¹⁷ Protocol Additional to the Geneva Conventions 1977, Protocol I, article 48..

¹⁸ Protocol Additional to the Geneva Conventions 1977, Protocol I, article 51.

¹⁹ Protocol Additional to the Geneva Conventions 1977, Protocol I, article 57.

²⁰ Protocol Additional to the Geneva Conventions 1977, Protocol I, article 51(5).

²¹ Protocol Additional to the Geneva Conventions 1977, Protocol I, article 75.

²² Protocol Additional to the Geneva Conventions 1977, Protocol I, article 35(3).

design and use of AI. Direct human supervision and intervention are essential to comply with humanitarian law, to prevent unlawful harm and to preserve the ethics of war.

The IHL framework for the use of artificial intelligence in war

The use of artificial intelligence (AI) technologies in warfare is a complex legal challenge in relation to international humanitarian law (IHL). As AI technologies emerge as various tools in warfare, it is important to understand how these technologies comply with IHL principles. The following points explain the legal relationship between IHL and AI technologies: International humanitarian law (IHL) aims to protect those not taking part in hostilities (such as civilians) by regulating warfare and respecting the principles of war^[23]. AI technologies such as drones, autonomous weapons and other technologies must implement the key principles of IHL according to which warfare must be conducted on the basis of objective and military necessity^[24]. These principles include: Distinction, Proportionality, Necessity, and Humanity^[25]. AI technologies should be used in a way that implements these principles and respects international humanitarian law in all areas of warfare. The use of autonomous weapons raises legal issues. The issue of liability arises in the operation of autonomous weapons, such as drones (e.g. the MQ-9 Reaper) and autonomous weapon systems (LAWS). In most cases, the responsibility for AI systems will lie with the humans who deploy and monitor these weapons in combat^[26]. However, if an AI system acts in a way that is inappropriate, this raises liability issues. Some lawyers and scholars have suggested that AI systems should be held accountable for their actions. However, international law does not currently grant AI legal personality and can be prosecuted for war crimes. These controversies suggest that the use of AI technology requires international law to provide a clear framework that clarifies the relationship between the responsibilities of humans and AI systems. Under international law, only humans (natural persons) are held responsible for war crimes. AI systems do not have legal personality to be prosecuted for war crimes^[27]. In the use of AI systems, responsibility will lie with the humans who use and supervise the technology. If an AI system commits an unlawful attack, responsibility for that action will lie with the humans supervising that system. If AI systems act autonomously, commanders can be held responsible for the actions of these systems if they do not observe IHL in using these systems. A key principle of IHL is distinction, which dictates that military targets must be distinguished from civilians and civilian objects during hostilities, obliges parties to a conflict to distinguish between combatants and civilians (Protocol I, Article 48)^[28]. Autonomous weapons and AI technologies that are tasked with making this distinction are sometimes capable of doing so, but they also have some

²³ Bugnion, "Just Wars, Wars of Aggression and International Humanitarian Law."

²⁴ O'Brien and Arend, "JUST WAR DOCTRINE AND THE INTERNATIONAL LAW OF WAR."

²⁵ Shaw, "Geneva Conventions | International Humanitarian Law, Protections & History | Britannica."

²⁶ Kumar, "Ethical Concerns in Military Robotics: A Comprehensive Analysis."

²⁷ Simon, "Military Robotics."

²⁸ Protocol Additional to the Geneva Conventions 1977, Protocol I, article 48.

obstacles: Although AI systems can identify targets with great accuracy, distinguishing between military and civilian targets, especially in asymmetric warfare (such as urban warfare), is still a major challenge for AI. Sometimes, AI systems can make mistakes or biases that violate IHL principles and harm civilians. To implement the principle of distinction, AI technologies must be sufficiently advanced and tested to accurately distinguish between military targets and civilians in all areas of conflict. The principle of proportionality dictates that attacks must be proportionate to the military advantage in relation to the harm to civilians caused by IHL, and the intensity of the attack must be proportionate to the objective and the harm to civilians must not be disproportionate to the importance of the objective (Protocol I, Article 51) ^[29]. AI systems used in combat operations should be programmed to ensure proportionality of attacks, AI systems such as drones or autonomous weapons can automatically assess the military advantage and potential harm. These systems can delay or modify attacks if they determine that proportionality is about to be exceeded. For AI systems, the process of assessing proportionality is difficult, especially when assessing military objectives or the potential for civilian harm. AI may fail to understand the entire strategic and overall environment as humans do. Parties to an attack must take measures to ensure that civilians and civilian objects are not targeted (Protocol I, Article 57) ^[30]. To implement the principle of proportionality, AI must have sophisticated algorithms that accurately analyze the military situation and the relative scale of the attack, in order to comply with IHL principles.

War in Afghanistan (2001-2021) in light of just war theory

The war in Afghanistan from 2001 to 2021 was waged by the international community, especially the United States and NATO forces, in the name of a war on terrorism ^[31]. The legitimacy and legality of this war can be assessed in light of the following questions according to the principles of Jus ad Bellum: After the attacks of September 11, 2001, the United States and its allies claimed that the purpose of the war was to destroy the Al-Qaeda network and its supporters, the Taliban. This argument was accepted as a legitimate goal internationally. Initially, the war on terrorism could be considered a just cause ^[32]. However, the protracted nature of the war, the civilian casualties, and the use of AI tools, such as drone strikes, raise the question of whether this justification has retained its legitimacy over time. The United States and other countries have argued that the war is necessary for international security. While national security is a legitimate justification, the Taliban's return to power at the end of the war in Afghanistan raises doubts about the effectiveness of this justification. The war claimed to protect Afghan civilians from Taliban atrocities and abuses. Although progress was made in some areas, reports of high civilian casualties during the war challenge the practical application of this justification. Early in the war, the United Nations supported international forces to counter the Taliban regime's support for al-Qaeda. The war began with legitimate

international support ^[33]. However, during the protracted war, the legitimacy of some military actions, particularly the use of AI tools (such as drone strikes), came into question, as some attacks resulted in civilian casualties. The use of AI in the war was largely carried out by international forces, which demonstrated the weak authority of the Afghan government. The Afghan government had limited authority over the strategy of the war, which demonstrated its lack of legitimate authority. The war was claimed to be aimed at eliminating the Taliban and bringing stability to Afghanistan. Despite the claim of peace, the prolonged nature of the war, the widespread use of AI tools, and the civilian casualties suggest that the intent of the war may have been to achieve strategic gains alone. Over the course of the war, the objectives of the United States and its allies expanded, including political and strategic control of the region. The expansion of the war's strategic intent raises serious questions about the justness of the war. The war began without a full examination of negotiations and other peace-seeking avenues. The early days of the war were given little opportunity for negotiation, raising the question of whether war was initiated as a last resort. The use of AI technology, particularly drone strikes, increased the level of violence rather than as a last resort. AI could have been used as a last resort in the early years of the war, but it limited the chances of peace in the long run. The 20-year war in Afghanistan was initially justified under the principles of Jus ad Bellum, but the protracted nature of the war, the unrestricted use of AI tools, and the limited efforts for peace have brought the legitimacy and legality of the war under serious question. An assessment of the consequences of this war shows that the war has lost its legitimacy in international and national principles.

The principles of Jus in Bello were established to ensure a legal and ethical framework for the conduct of war ^[34]. The following issues regarding the use of AI technology are being assessed for the 20-year war in Afghanistan: AI devices, especially drones, are designed with advanced sensors and algorithms to accurately target targets. However, there have been many reports of civilians being targeted during the war. Although AI devices have the ability to discriminate, attacks based on false information in Afghanistan have led to high civilian casualties. This shows that AI devices have not always respected the principle of distinction. Drone strikes targeting wedding ceremonies or civilian homes are serious violations of the principle of distinction. The principle of proportionality assesses the impact of attacks during the war. In Afghanistan, civilian casualties from drone strikes have in some cases outweighed the military benefits. The use of AI devices can in some cases be considered proportionate to achieve desired military objectives ^[35]. However, attacks that have harmed civilians are considered to violate the principle of proportionality. At times, AI-powered attacks have been shown to be disproportionate to the military objectives of the war, raising questions about international humanitarian law. AI tools are designed to accurately identify targets through advanced techniques, but limitations in ground information and poor data sources have led to erroneous strikes. The lack of precautions has led to an increase in attacks on civilians.

²⁹ Protocol Additional to the Geneva Conventions 1977, Protocol I, article 51.

³⁰ Protocol Additional to the Geneva Conventions 1977, Protocol I, article 57.

³¹ Imranullah and Hakimuddin, "Strategic Interests and Geopolitical Considerations."

³² Leaning, "Was the Afghan Conflict a Just War?"

³³ Asatiani, "War, Factor of War and Humanitarian Law."

³⁴ Ali, Rahim, and Bukhari, "The Just War Theory and Human Rights Violations."

³⁵ O'Brien and Arend, "JUST WAR DOCTRINE AND THE INTERNATIONAL LAW OF WAR."

Although AI tools were designed for accuracy, in practice their use has shown signs of not meeting the precautionary principle. The 2019 attacks that resulted in civilian casualties are indicative of a lack of precautions. In Afghanistan, autonomous AI tools (such as drones) have reduced the role of humans in automating decision-making during war. The use of these tools raises questions about whether they have respected the humane principles of war, such as mercy and the intervention of conscience. AI tools have increased the speed and efficiency of warfare, but the lack of human values, especially in decision-making, can be considered a violation of the principles of international humanitarian law. Attacks carried out autonomously, due to the lack of human control, are at odds with the humane ethics of war. The use of AI tools in Afghanistan has raised serious challenges to the principles of *Jus in Bello*. Although AI tools are designed to increase the accuracy and efficiency of warfare, the principles of distinction, proportionality, and precautions have often been violated. The use of inhumane tools remains a major moral and legal challenge to the humane principles of war.

The *Jus post Bellum* principle assesses justice, peace, and long-term outcomes in post-conflict situations ^[36]. The following questions are examined regarding the impact of AI technology: The primary goal of AI tools was to increase effectiveness in war, but there has been no documented significant contribution to post-conflict peace building. In post-conflict peacemaking, the use of AI tools was not intended to compensate civilians or rebuild trust. Due to civilian casualties, negative perceptions of AI tools have been created among the public, which has made the peacemaking process difficult. While AI tools have been effective in short-term military operations, their contribution to long-term peace and reconstruction has been limited or non-existent. In Afghanistan, there have been many reports of civilian casualties caused by AI tools, but there has been no transparent accountability process for those affected. There has been little provision for victims of drone strikes to obtain compensation or to pursue justice under international law. Many victims have been forgotten in the opaque context of war, which is at odds with international justice demands.

The harm caused by AI tools has not been adequately addressed in the light of international justice, which poses serious challenges to post-conflict justice standards. The negative impact of AI tools on the mental health of civilians and their quality of life has been serious. The constant fear of drone strikes has negatively affected the mental health of civilians. Some Afghans have seen AI as a symbol of the injustice of the international community. The extensive use of AI tools for war has led to the destruction of infrastructure and the depletion of natural resources in the environment. Land degradation and the destruction of buildings due to drone strikes are damages that have long-term effects. AI technology has led to the prolongation of the war, which has further destabilized the political structure of Afghanistan. The Afghan government has been overly reliant on international forces for AI tools, which has undermined efforts to build an independent political structure ^[37]. The use of AI technology in post-conflict situations in light of the principles of *Jus post Bellum* has created a number of problems and challenges: There was no significant contribution to peace and reconstruction. There was a

weakness in accountability and justice. It had negative effects on the long-term state of people, the environment, and political structures. The international community and relevant authorities did not take sufficient measures to ensure justice and reparation after the conflict, which indicates a serious weakness in the implementation of international humanitarian law.

Methods and methodology

This study is based on a qualitative analysis, which analyzes the principles of war, international human rights, and the use of artificial intelligence (AI). Based on this analysis, the application of drone strikes to international human rights principles and the theory of the justice of war is examined. In the process of this study, an in-depth study of existing literature and legal documents was conducted, in particular those international treaties and principles that deal with the protection of civilians in times of war and the fight against the risk of disappearance. For example, according to the Geneva Conventions and the principles of International Humanitarian Law (IHL), serious measures must be taken to protect civilians in the battlefield for all parties involved. This study also includes an assessment of the impact of drone strikes in Afghanistan. The impact of drone strikes has been analyzed based on various reports, such as those published by the Bureau of Investigative Journalism and UNAMA, which show civilian casualties and human rights violations.

Result

This study found that the use of AI tools (such as unmanned drones and automated weapons) in warfare has created a number of contradictions and synergies between the principles of Just War Theory and International Humanitarian Law (IHL). A detailed analysis of this compatibility is carried out in the light of both theories on the following topics: A key principle of international humanitarian law is that a clear distinction must be made between combatants and civilians during war. Direct harm to civilians is a violation of IHL, unless their harm is an accidental or unintended consequence. The Just War Theory considers the avoidance of civilian casualties as an important condition for the legitimacy of war. AI tools (such as unmanned aircraft) ensure accurate targeting, but the principle of distinction is undermined by potential errors. For example, during the war in Afghanistan, civilians were mistakenly targeted by unmanned vehicles, which is considered a violation of the principle of distinction. The limitations of artificial intelligence in recognition have weakened the ability to distinguish between combatants and civilians. AI tools were not sufficiently accurate to support the principle of distinction. Reports of civilian casualties in Afghanistan suggest that this principle has been violated. The principle of proportionality in IHL states that the benefits of military action must outweigh the harm to civilians and other groups. Proportionality must always be assessed at the time of an attack. The Just War Theory states that war is only legitimate if the measures are proportionate to the violence and damage. While some attacks using AI tools in Afghanistan have adhered to the principle of proportionality, many have caused more civilian casualties than military benefits. Drone attacks that were not targeted based on accurate intelligence are a

³⁶ Bugnion, "Just Wars, Wars of Aggression and International Humanitarian Law."

³⁷ Ali, Rahim, and Bukhari, "The Just War Theory and Human Rights Violations."

serious deviation from this principle. In the case of protracted conflicts, the use of AI tools has sometimes been used for strategic purposes, rather than simply to deter threats. The use of AI tools has been accompanied by widespread violations of the principle of proportionality. The increase in civilian casualties is the main reason for this. The precautionary principle of IHL states that all feasible measures must be taken to prevent civilian casualties during hostilities. The availability of transparent, accurate intelligence during attacks is considered essential. The precautionary principle of Just War Theory considers the morality of war and considers it necessary to take all necessary measures to reduce civilian casualties. AI tools are effective when they are based on accurate information, but in Afghanistan, there have been many reports of attacks based on inaccurate intelligence. In some cases, the lack of human review of the conduct of attacks has led to an increase in civilian casualties. The precautionary principle has not been sufficiently respected when using AI tools, as adequate measures have not been taken to prevent civilian casualties. The human control principle of IHL states that the need for human control over decision-making on the battlefield is essential to ensure compliance with the ethical framework of war. Just War Theory states that war should be conducted with human intervention, as human decision-making is better able to take into account ethics and law. The use of some autonomous devices in the Afghanistan war is considered a violation of this principle. The lack of human control has raised doubts about the legality and legitimacy of artificial intelligence decisions. AI devices have not fully respected the principle of human control, which is a violation of the principles of IHL and Just War Theory. An assessment of the compatibility between Just War Theory and IHL shows that the use of AI devices has supported these principles in some areas, but has also led to widespread violations of the principles. In particular, the principles of distinction, proportionality, and human control have not been effectively applied during AI operations. Due to this weak legal framework of the international community, the use of AI devices in war has increased ethical and legal problems. International laws for AI devices are still not clear and complete. The lack of a clear international framework for the operation of drones, autonomous vehicles, and AI technology has created a legal vacuum. The lack of transparency in the use of AI tools in wartime has challenged international law. International organizations such as the United Nations have consistently emphasized the control of autonomous vehicles, but have not developed a comprehensive framework for action. The international community has not developed a unified international response to the use of AI in Afghanistan, which reflects the lack of efforts to implement IHL. The development of AI technology has raised new challenges to the principles of war, and international law should place limits on the expansion of the use of these tools. AI operations are not fully consistent with the principles of Just War Theory and IHL. Ethical and legal problems have arisen in war due to violations of the principles of distinction and proportionality. International law has been insufficient to limit the use of AI, and the international community's response to legalizing AI has been weak.

Discussion

The conclusion provides a detailed analysis of the relationship between Just War Theory and International

Humanitarian Law (IHL) regarding the use of artificial intelligence (AI) tools. The analysis focuses on the development, ethical issues, and legal complexities of the use of AI tools in the field of warfare, focusing on some key concepts such as differentiation, proportionality, precautions, and human control. A critical discussion of this analysis shows that some principles, although supported by AI tools, have been widely violated, with some serious aspects left unaddressed. The distinction between Just War Theory and IHL is of fundamental importance for the protection of civilians during war. The conclusion notes that while AI tools (such as drones) increase the accuracy of targeting, their limitations in detection and the possibility of error undermine the distinction. This leads to a significant legal and ethical violation in the field of warfare. In this regard, the accuracy of the use of AI, especially in the absence of human intervention, is a serious challenge to the actual implementation of this principle. If AI tools invest enough research and development capital for accurate identification, they can fully respect the principle of distinction. Also, human intervention is only necessary to increase accuracy, so that ethical principles are properly followed. The principle of proportionality refers to the ratio between harm and benefit on the battlefield. In the conclusion section, it is stated that the use of AI tools in Afghanistan sometimes violates the principle of proportionality, as some attacks cause more harm to civilians. Some attacks using AI tools have been carried out based on false intelligence, which has made the application of the principle of proportionality incorrect. The main criterion of "proportionality" can be determined in any war. Based on data and intelligence on the use of AI tools, only minimal harm reduction is sufficient, other factors such as human rights should also be considered. We must also deal with attacks based on false information. The precautionary principle is based on taking necessary measures to protect civilians. The conclusion states that the precautionary principle was not properly observed when using AI tools. Attacks based on false intelligence and the lack of human intervention in Afghanistan violated this principle. The precautionary principle refers to the need for human control and transparency of information in war, but it should also be examined how the use of AI tools can reduce human error. Although there is a need to increase human intervention, some precautionary measures may be automated in the use of AI. The principle of human control is essential for maintaining the ethical framework of war. The conclusion states that some uses of AI tools in the Afghan war undermine the principle of human control. This leads to the conclusion that artificial intelligence decisions do not fully respect human ethics and legal boundaries. Although the need for human intervention has been made clear in this article, the important thing is that all types of AI devices allow for human intervention. It is possible for automated devices to design advanced programs that are consistent with human ethics and international law. Therefore, regulation and supervision of this process are necessary. The weakness of international law is clearly mentioned in the conclusion, especially in this regard, in that the use of AI devices still requires a comprehensive international and legal framework. Regarding the use of AI devices in the Afghan war, the international community has not yet taken clear measures to ensure that these devices are used within a fully legal and ethical framework. An important point about the weakness of international law is that the international community should

regulate the use of AI devices with its existing laws or create a special international law for this. Creating laws that are consistent with advanced technology is necessary in the era of technology. This discussion highlights that the use of AI tools sometimes undermines the principles of Just War Theory and IHL, particularly in the areas of distinction, proportionality, precautions, and human control. The international community should strive to develop clear and comprehensive legal frameworks for AI technology, in order to promote the ethical and legal application of these tools in warfare.

Conclusion

This study found that the use of AI tools in war has created a number of contradictions and synergies between the principles of Just War Theory and International Humanitarian Law (IHL). The use of AI tools in warfare has raised ethical and legal issues, highlighting contradictions between Just War Theory and International Humanitarian Law (IHL). AI tools have weakened the distinction between combatants and civilians, leading to potential errors. The precautionary principle of IHL requires transparent intelligence, but in Afghanistan, AI tools violated this. The weak international legal framework has led to increased ethical and legal problems, urging international law to limit AI's expansion. The analysis of the relationship between Just War Theory and International Humanitarian Law (IHL) in the use of artificial intelligence (AI) tools in warfare reveals significant ethical issues and legal complexities. The distinction between Just War Theory and IHL is crucial for protecting civilians during war, but AI tools' limitations in detection and potential errors undermine this distinction. The use of AI tools in Afghanistan sometimes violates the principle of proportionality, as some attacks cause more harm to civilians than intended. The precautionary principle, which requires human control and transparency of information, is also violated by AI tools. The conclusion emphasizes the need for regulation and supervision of AI devices, as they allow for human intervention. The study recommends increasing transparency on drone strikes to reduce human rights violations and set clear limits. It also calls for limited use of AI in the battlefield, ensuring human control and respect for humanity. It calls for strict enforcement of international human rights principles and the development of international agreements and regulations for AI use in war. It also emphasizes the importance of protecting civilians during conflict situations. The study suggests future research on AI ethics in warfare is crucial, as AI technology will pose new challenges to human rights, necessitating increased international coordination and law implementation, particularly in drone strikes.

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