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## Drone Strikes in Contemporary Armed Conflict under International Humanitarian and Human Rights Laws

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### Abstract

The rapid development of drones has fundamentally changed modern warfare. While this technology is used to reduce military casualties and conduct precision strikes, its targeted killings across borders have raised serious questions from the perspective of international law. Assessing the legality of drone strikes is important because they affect state sovereignty, the right to life, and the international order. Clarifying this issue is essential to fill legal gaps and strengthen accountability systems. This study uses an analytical-descriptive method, which includes a study of Afghan case law, treaties, customary law, and UN reports in accordance with the frameworks of International Human Rights Law (IHRL) and International Humanitarian Law (IHL). The findings show that most drone strikes are ambiguous in terms of jus ad bellum and jus in bello principles such as sovereignty, separation, proportionality, and necessity. States often justify these attacks under the guise of self-defense and counterterrorism, but effective accountability mechanisms are weak. The current state of drone warfare highlights the shortcomings of international legal frameworks, and these attacks fall into a “legal gray zone.” A comprehensive international legal framework is needed to ensure transparency, accountability, and adherence to international principles.

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### 1. Introduction

The rapid development of drone technology has fundamentally changed the nature of modern warfare. These devices, which were initially used for surveillance and reconnaissance, have now become an important tool for targeted attacks, especially in counter-terrorism operations. The widespread use of these operations, especially by states on the territory of other states, has raised important questions from the perspective of international legal principles. The legal assessment of drone strikes is important because the issue is directly related to the sovereignty of states, the principle of the prohibition of the use of force, and the right to life of the human being. It is necessary to clarify the relationship between International Human Rights Law (IHRL) and International Humanitarian Law (IHL) in order to determine whether these attacks are legitimate under the law. The main objectives of this study are: 1) to examine the legal status of drone strikes under international legal frameworks; 2) to analyze the application of the principles of jus ad bellum and jus in bello; 3) to assess the legitimacy of these attacks in light of the principles of sovereignty, separation, proportionality, and necessity; 4) Clarify the relationship between IHL and IHRL. The main problem is that drone strikes often exploit legal grey areas in which the definition of armed conflict, geographical boundaries, and criteria for targeting are unclear. In addition, the lack of consent of the host state, the use of classified intelligence information, and weak accountability mechanisms lead to conflicts with the principles of international law. This situation raises the question of whether these attacks constitute legitimate self-defense or an unlawful violation of the right to life. Afghanistan is one of the countries that has experienced the direct impact of drone warfare. Therefore, legal research on this issue is of

particular importance in this country, as it is not only a matter of national sovereignty and security, but also a question of respect for the rights of civilians and international law. The results of this study can play an important role in developing legal policy for Afghanistan, understanding international obligations, and strengthening accountability mechanisms. The figures for Afghanistan (13,072 total) appear to summarize the overall impact of drone-related incidents, with estimated ranges showing different categories of casualties. These include approximately 300–909 civilian deaths, including 66–184 women and children, alongside an estimated 4,126–10,076 injured civilians. In addition, 658–1,769 individuals are likely classified as combatants or targeted militants killed, while the broader range of 4,784–11,845 may reflect combined estimates of total affected persons, including both fatalities and injuries<sup>[1]</sup>. The use of ranges highlights the uncertainty in reporting due to limited access, secrecy of operations, and differences among data sources.

## 2. Literature Review

### 2.1. Legal Framework – Jus ad Bellum and Jus in Bello

The legality of drone strikes is assessed within two fundamental frameworks of international law: jus ad bellum (the right to use force) and jus in bello (the rules of conduct of war). Both systems are based on the principles of the United Nations Charter (1945) and the Geneva Conventions (1949) and aim to strike a balance between the sovereignty of States and human rights. Article 2(4) of the UN Charter prohibits the threat or use of force and guarantees respect for the territorial integrity and political independence of States. There are only two exceptions: 1) Article 51 of the Charter, which provides for the right of self-defense; and 2) authorization of the use of force by the Security Council under Chapter VII. In practice, the United States and some other countries have justified drone strikes under the guise of self-defense, particularly against non-state armed groups<sup>[2]</sup>. However, in the case of *Nicaragua v. United States* (1986) clarified that self-defense must be based on an “armed attack” attributable to the state. After the events of September 11, the “unwilling or unable” doctrine emerged<sup>[3]</sup>, according to which a state can take action against non-state actors in the territory of another state if the host state does not prevent it. This doctrine does not have an international consensus and is considered to undermine the principle of sovereignty. Drone strikes by foreign forces in Afghanistan have often been carried out under the guise of self-defense and

counterterrorism operations, but legal debates about national sovereignty, state consent, and Security Council authorization are still ongoing<sup>[4]</sup>. In addition, the principles of necessity and proportionality (Carcelén, 1989) require that any defensive action must be limited and proportionate. Although drones are considered accurate, civilian casualties raise doubts about compliance with these principles<sup>[5]</sup>. When armed conflict exists, the rules of international humanitarian law, in particular the Geneva Conventions and Additional Protocols, apply. Three basic principles are: Parties to the conflict must distinguish between civilians and combatants<sup>[6]</sup>. Drone “signature strikes,” which target behavior, call into question the principle of distinction<sup>[7]</sup>. Attacks that cause civilian harm, outweighing the expected military benefit, are prohibited (Rose & Oswald, 2016). Reports show that civilian casualties in Afghanistan increased the likelihood of violating the principle of proportionality<sup>[8]</sup>. All possible measures must be taken to minimize civilian harm. The lack of transparency regarding drone strikes raises the question of whether the precautionary principle is being fully respected. The limited intelligence information during drone operations in Afghanistan, the difficulties of accurate target identification, and the unconventional environment of warfare have made it difficult to apply these principles<sup>[9]</sup>. In practice, states claim self-defense under jus ad bellum and then justify their actions under jus in bello, but these two frameworks are not always applied in harmony<sup>[10]</sup>. Although existing legal frameworks are theoretically sound, new phenomena such as drone warfare reveal the shortcomings of this system<sup>[11]</sup>. The experience of Afghanistan in particular shows that the boundaries of sovereignty, the definition of war, and self-defense remain unclear, highlighting the need for further development and clarification of international law.

### 2.2. Drone strikes and International Humanitarian Law (IHL)

IHL is the body of rules that governs the conduct of war in armed conflict and seeks to strike a balance between military necessity and humanitarian values<sup>[12]</sup>. Drone warfare, despite its claim to be precision strikes, has raised serious legal questions regarding the fundamental principles of IHL, such as distinction, proportionality, and precaution, particularly when these strikes are carried out in unconventional battlefields and against non-state actors<sup>[13]</sup>. According to Common Article 2 of the Geneva Conventions, IHL applies in international armed conflicts, and Common Article 3

<sup>1</sup> Zunaira Inam Khan, “The Legality of the Drone War: Drone Strikes under International Humanitarian Law,” *Focus* 2, no. 2 (2022): 44.

<sup>2</sup> VIII Chapter et al., “Charter of the United Nations,” Available at the Website <http://www.un.org/en/documents/charter/chapter14.shtml> (Accessed 2 March 2020), 1945.

<sup>3</sup> Eric Blanco Niyitunga, “Armed Drones and International Humanitarian Law,” *Digital Policy Studies* 1, no. 2 (2022): 18–39.

<sup>4</sup> Zabihullah Shinwari et al., *The Deployment of Military Robots and the Principle of Distinction in International Humanitarian Law: Balancing Human Protection or Emerging Challenges*, 2025.

<sup>5</sup> Tanjil Khan Sakib, *The Legality and Ethics of Targeted Killings: A Study of Drone Strikes under Public International Law and International Humanitarian Law*, 2024.

<sup>6</sup> Niyitunga, “Armed Drones and International Humanitarian Law.”

<sup>7</sup> Saba Sotoudehfar and Jeremy Julian Sarkin, “Drones on the Frontline: Charting the Use of Drones in the Russo-Ukrainian Conflict and How Their Use May Be Violating International Humanitarian Law,” *International & Comparative Law Review/Mezinárodní a Srovnávací Právní Revue* 23, no. 2 (2023).

<sup>8</sup> Sakib, *The Legality and Ethics of Targeted Killings: A Study of Drone Strikes under Public International Law and International Humanitarian Law*.

<sup>9</sup> Imran Shirzay et al., “Adaptive Resilience of International Law: Sustaining Legitimacy, Trust, and Effectiveness in Contemporary Global Conflicts,” *International Journal of Multidisciplinary on Science and Management IJMSM* 2, no. 4 (n.d.).

<sup>10</sup> Wayne Magwaza, *The Legality of Drone Strikes under International Humanitarian Law*, 2025.

<sup>11</sup> Khan, “The Legality of the Drone War: Drone Strikes under International Humanitarian Law.”

<sup>12</sup> Imranullah Akhtar et al., “The International Humanitarian Law and AI Deployment in Afghanistan’s War: A Just War Theory (2001-2021),” *International Journal of Multidisciplinary Research and Growth Evaluation* 6, no. 1 (2025): 1193–200.

<sup>13</sup> Grigoris Kanellis, “Armed Drones and the Law of War: From Compliance with International Humanitarian Law to Targeted Killings,” Available at SSRN 5245551, 2025.

provides minimal protection in non-international armed conflicts (NIACs) <sup>[14]</sup>. Some states claim that drone operations are part of a broader NIAC against international terrorist groups, but this interpretation is considered an extension of customary legal standards <sup>[15]</sup>. According to the International Committee of the Red Cross (ICRC), IHL only applies when the conflict is sustained and organized <sup>[16]</sup>. Therefore, drone strikes that occur outside of such a situation must be assessed within a human rights framework. Afghanistan is a clear example of an NIAC, so drone operations here are, in principle, subject to IHL; however, the targeting, the conflict's broad geographical scope, and the role of foreign forces still create legal ambiguities <sup>[17]</sup>. A fundamental principle of IHL is that a distinction must be made between civilians and combatants. This principle is mandated by the Fourth Geneva Convention and Additional Protocol I. Drone "signature strikes," which target behavior, increase the risk of violating this principle <sup>[18]</sup>. In Afghanistan, especially in rural and tribal areas, the line between combatants and civilians is very thin, which increases the likelihood of mistargeting and civilian casualties.

Article 51(5) (b) of Additional Protocol I prohibits attacks that would cause civilian harm that would outweigh the anticipated military advantage <sup>[19]</sup>. Despite the perceived precision of drones, reports indicate that civilian casualties remain a serious problem <sup>[20]</sup>. Article 57 of the same protocol also sets out the precautionary principle, which requires that all feasible measures be taken to minimize civilian harm <sup>[21]</sup>. However, the remoteness of drone operations, technological limitations, and lack of ground verification weaken this principle <sup>[22]</sup>. The lack of intelligence during drone strikes in Afghanistan and the complex war environment have made it difficult to apply the principles of proportionality and precaution. IHL requires states to investigate violations and prosecute those responsible. However, most drone programs are kept secret under the guise of "national security." States should disclose targeting criteria, casualties, and legal bases <sup>[23]</sup>. In Afghanistan, the lack of transparency and independent investigations has undermined public trust and raised doubts about the application of international law.

Although drones are presented as "humanitarian warfare," in reality, they are the normalization of sustained violence from afar <sup>[24]</sup>. This situation is at odds with the spirit of IHL, as the war becomes one-sided and unbalanced. Drone warfare demonstrates both the flexibility and weakness of IHL principles <sup>[25]</sup>. Although this technology is capable of precision strikes, the secrecy of targeting, civilian casualties, and operations across borders call into question the fundamental principles of IHL <sup>[26]</sup>. The experience of Afghanistan shows that unless transparency, accountability, and strict adherence to legal principles are ensured, drone strikes will remain in a state of legal and moral ambiguity <sup>[27]</sup>.

### 2.3. Drone strikes and International Human Rights Law (IHRL)

IHRL guarantees fundamental human rights in all situations—whether in peace or war <sup>[28]</sup>. Drone strikes are assessed under IHRL largely based on the right to life, due process, and state responsibility <sup>[29]</sup>. Article 6 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to life and prohibits arbitrary killings <sup>[30]</sup>. According to IHRL, lethal force is only legitimate when necessary, and there is no other way to protect life <sup>[31]</sup>. Many drone strikes, especially in areas not in a formal armed conflict, such as Afghanistan, do not meet this standard <sup>[32]</sup>. Former United Nations Special Rapporteur Philip Alston has emphasized that most targeted killings are carried out without due process and take the form of "extrajudicial killings" <sup>[33]</sup>. In Afghanistan, although some operations fall under the ambit of an armed conflict, attacks carried out outside of active hostilities are subject to the strict standards of IHRL and are more likely to violate the right to life. An important legal debate is whether human rights law applies beyond the borders of a state. The International Court of Justice's Advisory Opinion (2004) has held that states are also responsible towards individuals under their "effective control", even if they are outside their territory <sup>[34]</sup>. Therefore, states that carry out drone strikes in other countries cannot claim to be exempt from the application of IHRL. In practice, however, some states argue that these operations fall solely under the ambit of IHL, a matter that continues to be the

<sup>14</sup> Arturo Jimenez-Bacardi, "Drone Warfare and International Humanitarian Law: The US, the ICRC, and the Contest over the Global Legal Order," in *Drones and Global Order* (Routledge, 2021).

<sup>15</sup> Cecilia Jacob and Nicola Mathieson, "Drone Warfare and the Human Protection Transnational Legal Order," in *Drones and Global Order* (Routledge, 2021).

<sup>16</sup> Nwamaka Adaora IGUH and Florence Chinenye Akubuilu, "The Position of International Humanitarian Law on The Use of Combat Drones in Armed Conflict," *Unizik Law Journal* 18 (2023).

<sup>17</sup> Driss; El Hajraoui Ed. daran Fatima Ezzohra; Zaid, Zaid Ali; Al Ajlani, Riad; Malik, Zia-ud-Din, "The Legality of Drone Use under International Humanitarian Law: Theoretical Perspectives and Case Law Insights," *Access to Just. E. Eur.*, 2025, 478.

<sup>18</sup> Fabio Calzolari and Wipa Phantaboon, "Homo Machina: Italian Perspectives on Drone Warfare within International Humanitarian and Human Rights Law," *Sriwijaya Law Review* 9, no. 1 (2025): 22–48.

<sup>19</sup> I. Protocol, "Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating the Protection of Victims of International Armed Conflict (Protocol I)," *United Nations Treaty Series* 1125 17512 (1977).

<sup>20</sup> Romualdo Bermejo Garcia and Andrea Cocchini, "The Drones under International Humanitarian Law (IHL)," *Anuario Espanol de Derecho Internacional* 36 (2020): 27.

<sup>21</sup> Protocol, "Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating the Protection of Victims of International Armed Conflict (Protocol I)."

<sup>22</sup> Kirsten Per Andersen, *A Blast from the Past: Armed Drones, International Humanitarian Law, and Imperial Violence*, 2022.

<sup>23</sup> Nehaluddin Ahmad et al., "Can International Humanitarian Law Regulate Recent Drone Strikes?: A Case Study," *JE Asia & Int'l L.* 17 (2024): 159.

<sup>24</sup> Sakib, "The Legality and Ethics of Targeted Killings: A Study of Drone Strikes under Public International Law and International Humanitarian Law."

<sup>25</sup> Akhtar et al., "The International Humanitarian Law and AI Deployment in Afghanistan's War: A Just War Theory (2001-2021)."

<sup>26</sup> Kanellis, "Armed Drones and the Law of War: From Compliance with International Humanitarian Law to Targeted Killings."

<sup>27</sup> Khan, "The Legality of the Drone War: Drone Strikes under International Humanitarian Law."

<sup>28</sup> Magwaza, "The Legality of Drone Strikes under International Humanitarian Law."

<sup>29</sup> Shinwari et al., "The Deployment of Military Robots and the Principle of Distinction in International Humanitarian Law: Balancing Human Protection or Emerging Challenges."

<sup>30</sup> Sarah Joseph, *International Covenant on Civil and Political Rights (ICCPR)* (Edward Elgar Publishing, 2022).

<sup>31</sup> Bermejo Garcia and Cocchini, "The Drones under International Humanitarian Law (IHL)."

<sup>32</sup> Akhtar et al., "The International Humanitarian Law and AI Deployment in Afghanistan's War: A Just War Theory (2001-2021)."

<sup>33</sup> Shinwari et al., "The Deployment of Military Robots and the Principle of Distinction in International Humanitarian Law: Balancing Human Protection or Emerging Challenges."

<sup>34</sup> Jacob and Mathieson, "Drone Warfare and the Human Protection Transnational Legal Order."

subject of legal controversy<sup>[35]</sup>.

Article 2(3) of the ICCPR obliges states to ensure effective remedies and investigations in the event of violations of rights. However, the secretive nature of drone programs, the lack of disclosure of targeting criteria, and limited information on casualties undermine the accountability process<sup>[36]</sup>. Christof Heyns, the UN Special Rapporteur, has warned that if this situation continues, the world could be heading towards a “global battlefield,” where states will consider themselves authorized to kill anywhere<sup>[37]</sup>. The lack of transparency regarding drone strikes in Afghanistan, the lack of independent investigations, and the limited mechanisms for redress for victims’ families are clear examples of the failure to implement IHRL principles<sup>[38]</sup>. Some legal scholars, such as Nils Melzer, believe that drone warfare leads to the rule of law rather than the rule of law and undermines international human rights principles<sup>[39]</sup>. The UN Human Rights Council has also emphasized that states should establish transparent legal frameworks that meet the standards of both IHL and IHRL<sup>[40]</sup>. Drone warfare is in serious conflict with international human rights principles, particularly the right to life, necessity, proportionality, and accountability<sup>[41]</sup>. The experience of Afghanistan shows that unless a strong legal framework is established that is transparent, accountable, and in line with international standards, such attacks will undermine the foundations of the human rights system.

#### 2.4. Responsibility in Drone Warfare

The widespread use of drone strikes has further complicated the issue of State and individual responsibility under international law. Despite the claims of precision operations by this technology, the determination of responsibility becomes a fundamental legal challenge when principles of international humanitarian law (IHL) and international human rights law (IHRL) are violated<sup>[42]</sup>. The most important legal basis in this regard is the Articles on the Responsibility of States for Internationally Wrongful Acts (ARSIWA, 2001) adopted by the International Law Commission. According to Article 2 of ARSIWA, a State is internationally responsible when: 1) the act is attributable to it; and 2) it has breached an international legal obligation. In cases of drone strikes, civilian casualties, violations of sovereignty, and extrajudicial killings can be considered internationally wrongful acts<sup>[43]</sup>. However, this issue becomes more complicated when operations are carried out jointly by several States, such as the NATO operation in Afghanistan. The International Court of Justice’s Nicaragua case (1986) establishes the principle of “effective control”, according to

which a state is liable when it has direct control or direction over the operation<sup>[44]</sup>. The existence of a multi-party military operation in Afghanistan has made it difficult to determine liability, as the lines of responsibility between foreign forces, coalition forces, and local partners are not clear.

Under international criminal law, the unlawful acts of drone strikes can be considered war crimes or crimes against humanity. Rome Statute of the International Criminal Court (1998): Article 8(2) (b) (1) states that an intentional attack on a civilian population constitutes a war crime; Article 28 states that command responsibility lies with military and political leaders. In practice, however, the jurisdiction of the court is limited, as some important states (such as the United States) are not members of the court.

The United Nations Human Rights Council and UN Special Rapporteurs, such as Philip Alston and Christof Heyns, have emphasized that the secrecy of drone programs reduces accountability and fosters a culture of impunity<sup>[45]</sup>. In addition, UN General Assembly resolution 68/178 (2013) calls on states to regulate drone operations in accordance with international law and ensure access to justice for victims<sup>[46]</sup>. At the national level, issues of “national security”, state immunity, and justiciability hinder accountability. For example, the Peshawar High Court of Pakistan (2013) declared drone strikes illegal and called for international intervention, but the practical results have been limited<sup>[47]</sup>. Access to justice for victims of drone attacks in Afghanistan is also limited, and the lack of effective judicial or administrative mechanisms has weakened the rule of law.

According to Article 31 of ARSIWA, a State that has committed an internationally wrongful act is obliged to make full reparation, which may take the form of restitution, compensation, or satisfaction<sup>[48]</sup>. In practice, however, most victims of drone strikes receive neither formal recognition nor compensation. UN Special Rapporteur Agnes Callamard has called this situation a “denial of justice.” Although the international legal framework contains clear principles for state and individual responsibility, their practical application in the context of drone warfare is limited and faces political obstacles<sup>[49]</sup>. The experience of Afghanistan shows that unless transparency, independent investigations, and international oversight are strengthened, these legal systems will remain only theoretical. Therefore, it is essential to establish a binding international mechanism for drone liability so that technology does not prevail over the principles of law and justice.

#### 2.5. Legal Gaps and Reform Needs

The widespread use of drone warfare has exposed important

<sup>35</sup> Bermejo Garcia and Cocchini, “The Drones under International Humanitarian Law (IHL).”

<sup>36</sup> Joseph, International Covenant on Civil and Political Rights (ICCPR).

<sup>37</sup> Christof Heyns, “Extrajudicial, Summary or Arbitrary Executions,” Security Issues in the Greater Middle East 183 (2013).

<sup>38</sup> Shinwari et al., The Deployment of Military Robots and the Principle of Distinction in International Humanitarian Law: Balancing Human Protection or Emerging Challenges.

<sup>39</sup> Ed. daran, “The Legality of Drone Use under International Humanitarian Law: Theoretical Perspectives and Case Law Insights.”

<sup>40</sup> Jimenez-Bacardi, “Drone Warfare and International Humanitarian Law: The US, the ICRC, and the Contest over the Global Legal Order.”

<sup>41</sup> Khan, “The Legality of the Drone War: Drone Strikes under International Humanitarian Law.”

<sup>42</sup> Niyitunga, “Armed Drones and International Humanitarian Law.”

<sup>43</sup> Vladyslav Lanovoy, “Responsibility for Complicity in an Internationally Wrongful Act: Revisiting a Structural Norm,” paper presented at SHARES

Conference “Foundations of Shared Responsibility in International Law,” November, 2011.

<sup>44</sup> Martin Scheinin and UN Secretary-General, Protection of Human Rights and Fundamental Freedoms While Countering Terrorism: Note/by the Secretary-General, 2009.

<sup>45</sup> Heyns, “Extrajudicial, Summary or Arbitrary Executions.”

<sup>46</sup> Scheinin and Secretary-General, Protection of Human Rights and Fundamental Freedoms While Countering Terrorism: Note/by the Secretary-General.

<sup>47</sup> Ahmad et al., “Can International Humanitarian Law Regulate Recent Drone Strikes?: A Case Study.”

<sup>48</sup> Lanovoy, “Responsibility for Complicity in an Internationally Wrongful Act: Revisiting a Structural Norm.”

<sup>49</sup> Kanellis, “Armed Drones and the Law of War: From Compliance with International Humanitarian Law to Targeted Killings.”

shortcomings in the international legal system. While this technology increases the effectiveness of military operations, the lack of a clear legal framework puts state sovereignty, human rights protections, and the laws of war under serious scrutiny<sup>[50]</sup>. Therefore, reforms at the international and national levels are needed to ensure transparency, accountability, and the rule of law.

A key proposal is to establish a specific international treaty or “Code of Conduct” for armed drones. This treaty should clarify the conditions for authorizing strikes, the criteria for targeting, principles of transparency, and mechanisms for redress<sup>[51]</sup>. United Nations special rapporteurs, such as Christof Heyns, have emphasized that the lack of such a framework allows states to justify extrajudicial killings under the guise of counterterrorism<sup>[52]</sup>. This treaty could create a coherent *lex specialis* between international humanitarian law (IHL) and international human rights law (IHRL), to provide a specific legal regime for new technologies<sup>[53]</sup>. The United Nations Human Rights Council (UNHRC) should establish a central reporting system under which States are required to provide information on drone strikes, such as the legal basis, targeting criteria, civilian casualties, and post-strike investigations<sup>[54]</sup>. This measure is consistent with Article 2(3) of the International Covenant on Civil and Political Rights (ICCPR), which establishes the obligation to provide effective remedies<sup>[55]</sup>. The Security Council could also clarify the conditions for the use of drones across borders, in particular against non-State actors, under Article 51 of the Charter<sup>[56]</sup>.

Regional organizations such as the European Union, the African Union, and the Organization of Islamic Cooperation could develop guiding principles or model laws that are consistent with regional human rights standards<sup>[57]</sup>. For example, a European Parliament resolution (2014) calls on member states to prevent unlawful targeted killings and to bring their intelligence cooperation systems into line with international standards<sup>[58]</sup>. At the national level, states should: ensure parliamentary and judicial oversight of drone use; define clear legal boundaries for drone operations; establish independent monitoring institutions; and establish a system of compensation for civilian victims<sup>[59]</sup>. For example, a UK parliamentary group (2018) recommended that reporting and subsequent evaluation of drone strikes should be mandatory<sup>[60]</sup>. In Afghanistan, any foreign military action needs to be subject to national laws, parliamentary oversight, and judicial authorization in order to protect national sovereignty and guarantee the rights of civilians.

An important reform step is the establishment of an independent investigative body under the auspices of the United Nations, such as an international fact-finding mission<sup>[61]</sup>. This body could: investigate unlawful drone strikes;

gather evidence; and make recommendations for reparations. This would reduce the problem of impunity and help build international jurisprudence<sup>[62]</sup>. The use of artificial intelligence and autonomous weapons (AWS) raises serious legal and ethical issues. The UN expert group has emphasized that the use of lethal force must always be under effective human control<sup>[63]</sup>. Therefore, future legal frameworks should strictly prohibit fully autonomous systems from targeting and striking without human control. Multi-faceted reforms are needed to regulate drone warfare, including international treaties, UN oversight, regional coordination, and national legal changes<sup>[64]</sup>. The experience of Afghanistan shows that, if these reforms are not implemented, the development of drone technology will undermine the foundations of international law, increase human rights violations, and set a dangerous precedent for future conflicts.

### 3. Findings

The analytical and legal assessment of this study shows that drone strikes have an ambiguous and controversial status in the light of international legal frameworks—in particular, international humanitarian law (IHL) and international human rights law (IHRL). The analysis of the data shows that states often use a broad interpretation of Article 51 of the United Nations Charter (self-defense) to justify the use of force, but this interpretation lacks international consensus and calls into question the principle of state sovereignty.

In terms of *jus ad bellum*, the findings show that the “unwilling or unable” doctrine has been used in practice to justify the use of force across borders, but this doctrine does not have a clear legal basis in the traditional framework of international law. In particular, the principles of the International Court of Justice in the Nicaragua case indicate that self-defense must be based on a specific armed attack, a condition that is not always met in cases of drone strikes. From a *jus in bello* perspective, the analysis shows that although drone technology has the potential to deliver precision strikes, the application of the principles of distinction, proportionality, and precaution in practice faces serious challenges. The use of “signature strikes” for targeting, limited intelligence, and lack of ground verification has increased the likelihood of civilian casualties, which increases the risk of violations of fundamental principles of IHL. According to IHRL, the findings show that many drone strikes do not meet the strict standards of the right to life, especially when they are carried out outside of an active armed conflict. Under Article 6 of the International Covenant on Civil and Political Rights, taking life is only legitimate when necessary, but this requirement has not been proven in many cases. Furthermore, the analysis of the data shows that there is a serious lack of transparency and accountability in

<sup>50</sup> Sakib, *The Legality and Ethics of Targeted Killings: A Study of Drone Strikes under Public International Law and International Humanitarian Law*.

<sup>51</sup> Khan, “The Legality of the Drone War: Drone Strikes under International Humanitarian Law.”

<sup>52</sup> Heyns, “Extrajudicial, Summary or Arbitrary Executions.”

<sup>53</sup> Magwaza, *The Legality of Drone Strikes under International Humanitarian Law*.

<sup>54</sup> Ed. daran, “The Legality of Drone Use under International Humanitarian Law: Theoretical Perspectives and Case Law Insights.”

<sup>55</sup> Joseph, *International Covenant on Civil and Political Rights (ICCPR)*.

<sup>56</sup> Chapter et al., “Charter of the United Nations.”

<sup>57</sup> Magwaza, *The Legality of Drone Strikes under International Humanitarian Law*.

<sup>58</sup> Efthymios Papastavridis, “Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), 1986,” in *Latin America and the International Court of Justice* (Routledge, 2016).

<sup>59</sup> Calzolari and Phantanaboon, “Homo Machina: Italian Perspectives on Drone Warfare within International Humanitarian and Human Rights Law.”

<sup>60</sup> Andersen, *A Blast from the Past: Armed Drones, International Humanitarian Law, and Imperial Violence*.

<sup>61</sup> Akhtar et al., “The International Humanitarian Law and AI Deployment in Afghanistan’s War: A Just War Theory (2001-2021).”

<sup>62</sup> Niyitunga, “Armed Drones and International Humanitarian Law.”

<sup>63</sup> Calzolari and Phantanaboon, “Homo Machina: Italian Perspectives on Drone Warfare within International Humanitarian and Human Rights Law.”

<sup>64</sup> Shinwari et al., *The Deployment of Military Robots and the Principle of Distinction in International Humanitarian Law: Balancing Human Protection or Emerging Challenges*.

drone warfare. Targeting criteria, precise casualty figures, and the legal basis for operations are often kept secret, which hinders the implementation of international legal obligations. The International Law Commission's ARSIWA principles, while clarifying state responsibility, remain limited in practice due to political obstacles and weak international mechanisms.

#### 4. Discussion

The findings of this study suggest that drone warfare is situated in a "gray zone" within the framework of international law. Interpretation of these results suggests that although states justify drone strikes under the guise of self-defense and counterterrorism, these justifications are not fully consistent with international legal norms—particularly sovereignty, the right to life, and the principles of war.

From a *jus ad bellum* perspective, the analysis of the findings suggests that a broad interpretation of Article 51 of the United Nations Charter, specifically the "unwilling or unable" doctrine, has been used by states to use force across borders. This finding is consistent with previous research, which notes that this doctrine lacks international consensus and undermines the principle of sovereignty. Furthermore, compared with the principles of the International Court of Justice in the Nicaragua case (1986), current practical measures appear to extend beyond the traditional context of self-defense. From a *jus in bello* perspective, the findings of this study support the analysis of Akhtar *et al.* (2025) and Shinwari *et al.* (2010), who argue that the practical application of the principles of distinction and proportionality in drone strikes is problematic. Although some authors argue that drone technology reduces civilian casualties through precision strikes, our analysis shows that the lack of intelligence and the use of "signature strikes" increase the risk of civilian casualties. This situation raises the possibility of violating the fundamental principles of IHL. From an IHRL perspective, the results of the study are consistent with the views of Khan (2022) and Heyns (2013), who place many drone strikes in the category of extrajudicial killings. In light of the strict criteria of Article 6 of the International Covenant on Civil and Political Rights, it is clear that restrictions on the right to life are permissible only in cases of absolute necessity, but this condition has not been proven in many practical cases. In terms of accountability, the findings of this study are consistent with reports by international bodies such as the United Nations Human Rights Council, which identify a lack of transparency and a culture of impunity as key problems in drone warfare. Although the International Law Commission's ARSIWA principles define state responsibility, their practical implementation remains limited due to political considerations and the weakness of international mechanisms.

The experience of Afghanistan provides a practical example of these findings. Although drone strikes have been used for security purposes, they have exacerbated legal and social problems due to civilian casualties, violations of sovereignty, and a lack of accountability. This situation highlights the limitations of international legal frameworks, especially in cases where multilateral forces are involved.

This study also has limitations, such as the fact that it is largely based on secondary sources (books, reports, and legal documents), and there is a lack of field data. Second, the secretive nature of drone programs limits access to accurate data (such as casualty figures and targeting criteria). Third,

differences in legal interpretation among states make it difficult to reach a single conclusion. Fourth, in the case of Afghanistan, the lack of independent investigations due to security conditions has affected the credibility of the data. This controversy demonstrates that although existing international legal frameworks are theoretically comprehensive, new phenomena such as drone warfare have exposed the limitations of their practical application. The consistency of the results with previous research confirms that drone warfare still requires serious legal clarification and reform. The experience of drone strikes in Afghanistan shows that although these operations were carried out in the context of counterterrorism, they have raised legal and ethical problems due to civilian casualties, violation of sovereignty, and lack of accountability. The presence of multilateral forces has further complicated the determination of responsibility. The findings demonstrate that drone warfare falls into a "gray zone" of international law, where states exploit existing legal loopholes. This situation confirms the research problem statement that current international legal frameworks are inadequate to regulate new technologies and warfare across borders.

#### 5. Conclusion

The emergence of drone warfare has fundamentally changed the nature of modern warfare. While this technology has enabled states to conduct precision strikes from a distance, in practice, it has blurred the legal and ethical lines between warfare, law enforcement, and counterterrorism operations. The overall findings of this study suggest that drone strikes are largely conducted in a "gray zone" of international law, where there is a serious conflict between state sovereignty, humanitarian protection, and human rights. Under international humanitarian law (IHL), drone strikes must adhere to the principles of distinction, proportionality, and necessity, but the experiences of Afghanistan show that these principles are not fully observed in practice. The covert targeting process, the blurring of the line between civilians and combatants, and the persistence of civilian casualties suggest that compliance with the Geneva Conventions and customary international law is facing serious challenges. On the other hand, under international human rights law (IHRL), the right to life is a fundamental and inviolable principle under Article 6 of the International Covenant on Civil and Political Rights. The transnational nature of drone strikes raises the question of the extent to which States have human rights obligations beyond their borders. The interpretation of the International Court of Justice and human rights institutions has shown that these obligations extend beyond borders, even in the case of effective control, but in practice, the application of these principles is limited. The most important issue is accountability and responsibility. Although the International Law Commission's ARSIWA principles clarify State responsibility and the International Criminal Court framework provides a basis for individual responsibility, there are serious political and legal obstacles to practical implementation. Lack of transparency, limited international investigations, and the non-acceptance of international mechanisms by some States have reinforced a culture of impunity. In light of this situation, this study concludes that the current international legal frameworks are inadequate to regulate drone warfare. There is a need for a comprehensive and binding international legal system that includes clear principles on authorization, targeting,

transparency, and reparations. Reforms are also needed at the level of the United Nations, regional organizations, and national governments to strengthen oversight, reporting, and accountability. Finally, drone warfare should not be assessed solely based on its military effectiveness, but should be weighed against fundamental principles of international law—such as human dignity, state sovereignty, and the protection of civilians. If the use of this technology is not effectively regulated, it will negatively affect the foundations of international order, peace, and justice.

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