

# International Humanitarian Law Compliance in Modern Asymmetric Conflicts

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## Abstract

**Objective:** This study critically examines compliance with International Humanitarian Law (IHL) in modern asymmetric conflicts, focusing on both state and non-state actors. It aims to identify the factors influencing adherence and violations, and to evaluate the effectiveness of existing enforcement mechanisms.

**Method:** A doctrinal research method was employed, analysing primary legal sources including the Geneva Conventions (1949), Additional Protocols (1977), customary international law, and international tribunal judgments. Comparative case studies from Syria, Yemen, Afghanistan, and Ukraine were integrated with qualitative analysis of reports from the International Committee of the Red Cross, Human Rights Watch, and UN bodies to assess compliance patterns.

**Findings:** The study finds that compliance with IHL is selective and context-dependent. State actors demonstrate higher adherence due to formal military structures and legal advisory systems, yet political imperatives and military necessity often override legal obligations. Non-state actors show inconsistent compliance, motivated by strategic considerations such as legitimacy, propaganda, and avoidance of sanctions.

**Value:** This study provides actionable insights for policymakers, legal practitioners, and international organisations. By integrating legal, operational, and sociopolitical perspectives, it informs the development of adaptive enforcement mechanisms, context-specific codes of conduct, and strategies to enhance adherence to IHL, ultimately aiming to reduce civilian harm in contemporary asymmetric conflicts.

**Keywords:** International Humanitarian Law, asymmetric warfare, compliance, accountability

## 1.0 Introduction

Modern armed conflicts have increasingly shifted from traditional interstate warfare to asymmetric confrontations, where state forces engage with non-state actors, insurgents, and hybrid military entities [1][2]. These conflicts are characterised by irregular tactics, blurred distinctions between combatants and civilians, and the deployment of advanced technologies that challenge conventional legal frameworks. The emergence of asymmetric warfare has created profound implications for the application and enforcement of International Humanitarian Law (IHL), which governs conduct during armed conflict and aims to protect human life and dignity [3][4]. While the Geneva Conventions and their Additional Protocols establish the core legal norms, contemporary conflicts demonstrate persistent violations, ranging from indiscriminate attacks to the use of prohibited weapons and obstruction of humanitarian assistance [5][6]. State actors in asymmetric conflicts are often constrained by political imperatives, counterinsurgency doctrines, and operational exigencies, which can result in the prioritisation of strategic objectives over strict adherence to legal obligations [7][8]. Non-state actors, including rebel movements, militias, and hybrid forces, operate outside formal hierarchical and legal structures, making compliance with IHL inconsistent and largely contingent on strategic considerations such as legitimacy, propaganda, and avoidance of sanctions [9][10]. The dynamic interplay between operational realities and legal obligations underscores the need to reassess how IHL functions in asymmetric contexts and to identify mechanisms that can improve adherence [11][12]. The critical significance of this study lies in its capacity to illuminate the factors influencing compliance and violations of IHL in modern warfare. Existing scholarship has predominantly examined conventional conflicts, leaving gaps in understanding how legal norms are interpreted and applied by actors with varied capacities, motivations, and constraints [13][14]. Moreover, while previous studies highlight individual cases of violations, few provide a holistic synthesis integrating legal principles, operational conduct, and sociopolitical incentives [15][16]. By focusing on both state and non-state actors across multiple conflict zones, including Syria, Yemen, Afghanistan, and Ukraine, this study aims to bridge this gap and provide insights that are both theoretically robust and practically applicable [17][18].

This study is guided by two primary objectives. First, it seeks to identify and critically analyse the factors that influence compliance with IHL in asymmetric conflicts, considering both the institutional capacity of actors and the broader operational and political context [19][20]. This includes examining how state and non-state actors interpret legal obligations, the role of strategic calculations in adherence, and the impact of external pressures such as international scrutiny and reputational considerations. Second, the study evaluates the effectiveness of existing enforcement mechanisms, including international tribunals, domestic courts, monitoring organisations, and technological monitoring tools, in ensuring adherence to IHL [21][22]. By assessing these mechanisms, the research aims to provide actionable recommendations for improving accountability and reducing violations in contemporary conflict environments.

Methodologically, this study employs a doctrinal research approach. The doctrinal method involves the systematic analysis of primary legal sources, including the

Geneva Conventions of 1949, their Additional Protocols of 1977, customary international law, and relevant case law from international tribunals such as the International Criminal Court (ICC) and ad hoc tribunals [23][24]. This approach allows for a structured evaluation of the normative content of IHL, the legal obligations imposed on both state and non-state actors, and the interpretive challenges posed by asymmetric conflict settings. The doctrinal method is particularly suited to this study as it facilitates the identification of compliance patterns, legal gaps, and areas requiring reform, providing a solid foundation for policy-oriented analysis [25][26]. In addition to doctrinal analysis, the study integrates comparative case study evaluation of conflicts in Syria, Yemen, Afghanistan, and Ukraine. These cases provide empirical evidence of compliance patterns, highlight enforcement gaps, and illustrate the interaction between legal norms, operational imperatives, and strategic decision-making [27][28]. Data sources include primary legal texts, peer-reviewed literature, authoritative reports from international organisations such as the ICRC, Human Rights Watch, and the United Nations, as well as open-source conflict data documenting civilian casualties, attacks, and access restrictions [29][30]. Triangulating these sources enables a nuanced understanding of compliance trends and enhances the validity of the study's conclusions. The analysis begins with an examination of state actor compliance, exploring how institutional structures, legal advisory mechanisms, and political imperatives shape adherence to IHL. It considers how operational constraints, counterinsurgency doctrines, and military necessity claims influence the balance between legal obligations and strategic objectives. This is followed by an assessment of non-state actor behaviour, highlighting selective adherence, opportunistic compliance, and the use of IHL norms for legitimacy-building or propaganda purposes [31][32]. Finally, the study evaluates the effectiveness of enforcement and accountability mechanisms, including international tribunals, domestic courts, monitoring organisations, and technological interventions, identifying structural and operational factors that facilitate or impede compliance [33][34].

## **2.0 Theoretical Framework and Literature Review**

### **2.1 Theoretical Framework**

Understanding compliance with International Humanitarian Law (IHL) in modern asymmetric conflicts requires an integrated theoretical approach that combines legal, strategic, and governance perspectives [1][2]. This study employs three complementary theoretical lenses: Normative Legal Theory, Deterrence and Rational Choice Theory, and Accountability and Governance Theory. Together, these frameworks allow a multidimensional analysis of why actors comply or violate IHL obligations in contemporary conflicts. Normative Legal Theory posits that actors adhere to legal rules due to internalised norms, moral obligations, and the legitimacy of the law itself [3][4]. Within the IHL context, the principles of distinction, proportionality, and precaution serve as moral and legal imperatives guiding conduct during hostilities. State forces with well-developed military hierarchies and legal advisory structures are more likely to internalise these norms, demonstrating adherence even in the absence of direct enforcement [5][6]. Non-state actors may acknowledge the legitimacy of IHL, yet institutional limitations, lack of legal departments, and operational fragmentation often prevent consistent compliance

[7][8]. Normative legal theory highlights the tension between moral obligation and operational feasibility, particularly in asymmetric warfare where non-state actors may recognise legal norms without the capacity or cohesion to implement them.

Deterrence and Rational Choice Theory provides an additional explanatory dimension, asserting that compliance is influenced by calculated costs and benefits [9][10]. Actors weigh the potential consequences of violations, including international condemnation, economic sanctions, and prosecution under international law, against perceived operational advantages. In asymmetric conflicts, enforcement mechanisms are frequently weak, creating incentives for non-state actors to selectively violate legal norms when violations serve strategic objectives [11][12]. State actors may similarly interpret IHL expansively to justify actions that maximise operational efficiency, demonstrating the limits of deterrence-based compliance where enforcement is inconsistent or delayed [13][14]. Rational choice analysis emphasises the strategic logic underlying compliance, illustrating why legal norms may be subordinated to military or political objectives. Accountability and Governance Theory situates compliance within broader institutional and oversight structures [15][16]. This perspective underscores the role of domestic legal systems, international tribunals, civil society, and monitoring organisations in shaping adherence to IHL. Weak governance, fragmented territorial control, and contested authority undermine enforcement capacity, creating conditions conducive to violations [17][18]. Governance theory also highlights the interplay between legal compliance and political legitimacy, where both state and non-state actors may selectively adhere to norms to gain domestic or international recognition [19][20]. The integration of normative, deterrence, and governance perspectives provides a robust framework for analysing IHL compliance across diverse asymmetric conflict environments, enabling assessment of both actor-specific and structural determinants of adherence.

## 2.2 Literature Review

The literature on IHL compliance in asymmetric conflicts identifies persistent gaps between legal norms and operational realities. Traditional scholarship has largely focused on conventional interstate conflicts, emphasising codified obligations under the Geneva Conventions and Additional Protocols [21][22]. These works establish the foundational principles governing armed conflict, including distinction, proportionality, and precaution [23][24]. However, asymmetric conflicts—where state forces engage with insurgents, militias, or hybrid actors—pose interpretive and enforcement challenges that conventional analyses often overlook [25][26].

### Compliance Gaps among Non-State Actors

Non-state armed groups exhibit selective and inconsistent adherence to IHL, influenced by institutional capacity, strategic interests, and legitimacy concerns [27][28]. Bothe et al. (2016) argue that such actors often lack internal structures necessary for implementation, resulting in deliberate exploitation of legal ambiguities to gain operational advantage [29][30]. Similarly, Sandoz et al. (2017) note that customary IHL binds all conflict parties regardless of formal treaty participation, yet enforcement is weak when actors operate beyond state authority [31][32]. Case studies from Syria and Yemen reveal that non-state actors adhere to IHL norms

instrumentally, such as protecting medical personnel or humanitarian convoys when it enhances legitimacy or facilitates propaganda objectives, while violating civilian protection principles when strategically advantageous [33][34].

### **State Actor Compliance and Operational Constraints**

State actors generally possess institutional capacity, legal advisory systems, and hierarchical command structures that support compliance [35][36]. However, compliance is often influenced by political imperatives, counterinsurgency doctrines, and operational exigencies. Schmitt and Pejic (2018) demonstrate that military strategies prioritising counterterrorism or territorial control often result in expansive interpretations of proportionality and necessity, leading to civilian harm despite formal claims of compliance [37][38]. Evidence from Afghanistan and Iraq illustrates that operational expediency frequently supersedes legal obligations, creating a gap between doctrinal compliance and practical behaviour [39][40]. These observations highlight the structural and strategic factors that shape adherence, revealing that state compliance is contingent rather than absolute.

### **Enforcement Mechanisms and Accountability Challenges**

The literature identifies critical limitations in enforcement and accountability mechanisms [41][42]. International tribunals, including the ICC and ad hoc courts, prosecute selected violations, yet many breaches remain unpunished due to attribution difficulties, political constraints, and resource limitations [43][44]. Monitoring organisations such as the ICRC, Human Rights Watch, and UN agencies document violations, advocate for compliance, and issue recommendations, but these lack binding authority and preventive effect [45][46]. Authors such as Melzer (2016) emphasise the need for adaptive legal instruments, including engagement with non-state actors and integration of international criminal law, to address systemic violations [47][48]. Despite these recommendations, enforcement remains reactive, highlighting persistent gaps in translating legal norms into operational practice.

### **Integration of Legal, Operational, and Sociopolitical Perspectives**

Recent scholarship underscores the importance of integrating doctrinal analysis with operational realities and sociopolitical incentives [49][50]. Compliance cannot be understood solely through legal texts, as adherence is shaped by the strategic environment, governance structures, and legitimacy concerns. Cross-conflict comparisons reveal differential patterns: in contexts with high international visibility, such as Ukraine, adherence is comparatively higher due to sustained monitoring and media scrutiny, whereas conflicts with weak governance and low visibility, such as Yemen, exhibit persistent violations [51][52]. These findings reinforce the relevance of combining legal, strategic, and governance perspectives to comprehensively assess compliance.

### **Emerging Insights**

The literature collectively demonstrates several key insights. First, compliance is often instrumental rather than normative, guided by strategic objectives and perceived costs and benefits [53][54]. Second, institutional capacity strongly influences adherence; well-structured state forces exhibit higher compliance than non-state actors lacking formalised chains of command [55][56]. Third, visibility and accountability drive behaviour; international scrutiny, media coverage, and

reputational considerations can incentivise adherence even in complex conflict settings [57][58]. Fourth, selective adherence is common, with actors complying with certain norms while violating others depending on operational and strategic calculations [59][60]. These insights form the foundation for the subsequent analysis of specific sub-themes and objectives addressed in this study.

### **3.0 Factors Influencing Compliance with IHL in Asymmetric Conflicts**

#### **3.1 Actor-Specific Determinants of Compliance**

Compliance with International Humanitarian Law (IHL) in asymmetric conflicts varies significantly across actor types, reflecting differences in institutional capacity, operational doctrine, and strategic priorities [1][2]. State actors typically possess structured military hierarchies, legal advisory systems, and formal chains of command that facilitate the integration of IHL into operational planning [3][4]. These structures enable states to implement internal monitoring, training, and accountability mechanisms that encourage adherence to legal norms, particularly regarding the protection of civilians, treatment of prisoners, and medical neutrality [5][6]. Despite these institutional advantages, compliance is frequently compromised by political imperatives, military necessity claims, and counterinsurgency or counterterrorism strategies, which often prioritise operational objectives over strict legal adherence [7][8]. Non-state actors, including insurgent groups, militias, and hybrid forces, operate under significantly different conditions. They often lack formal institutional frameworks, legal departments, and hierarchical discipline, which undermines consistent implementation of IHL obligations [9][10]. For such actors, compliance is largely contingent on strategic calculations rather than normative commitment. Selective adherence is common; for instance, groups may respect protections for medical personnel or humanitarian actors when doing so advances legitimacy or facilitates access to aid, while deliberately targeting civilian infrastructure to achieve operational advantage [11][12]. The asymmetric nature of these conflicts allows non-state actors to exploit legal ambiguities, using IHL selectively as a tool for propaganda, reputational management, and negotiation leverage in the international arena [13][14]. Empirical evidence from conflicts in Syria, Yemen, and Afghanistan illustrates these dynamics. State actors have engaged in indiscriminate aerial bombardments and siege tactics, justified under counterterrorism frameworks, yet their compliance increases in contexts subject to international scrutiny, such as Ukraine [15][16]. Non-state actors, including the Houthis and certain Syrian factions, demonstrate opportunistic adherence, observing select IHL norms when advantageous but violating others strategically [17][18]. These patterns suggest that compliance is highly contingent on actor-specific determinants, highlighting the importance of evaluating institutional capacity, strategic objectives, and operational constraints in understanding IHL adherence in asymmetric warfare [19][20].

#### **3.2 Operational and Environmental Factors**

Beyond actor-specific characteristics, operational and environmental conditions exert a substantial influence on compliance with IHL. The complex and fluid nature of asymmetric battlefields, often characterised by urban combat, civilian intermingling, and contested territorial control, complicates the application of legal norms [21][22].

Distinguishing combatants from civilians becomes challenging, increasing the likelihood of collateral harm and violations of proportionality and distinction principles [23][24]. Moreover, operational imperatives, including the rapid movement of forces, intelligence constraints, and technological advantages such as drones or cyber capabilities, can incentivise actors to adopt interpretations of IHL that prioritise mission success over strict compliance [25][26]. Environmental and contextual factors further shape compliance patterns. International visibility, media coverage, and diplomatic attention create external pressure on both state and non-state actors to adhere to legal obligations [27][28]. In conflicts under intense scrutiny, such as Ukraine, actors demonstrate comparatively higher compliance, adhering to principles such as proportionality and distinction to maintain legitimacy and avoid international sanctions [29][30]. Conversely, in low-visibility environments with weak governance or fragmented control, as observed in Yemen and parts of Syria, violations persist due to limited external monitoring, challenges in attributing responsibility, and the absence of effective deterrent mechanisms [31][32]. Resource constraints and operational realities also affect compliance. Non-state actors often operate with limited personnel, weaponry, and logistical support, which can both impede and shape adherence. Strategic decisions regarding targeting, humanitarian access, and treatment of civilians are influenced by the interplay between resource scarcity and operational objectives [33][34]. State actors may face similar constraints when engaging in counterinsurgency operations or urban warfare, balancing compliance with IHL against operational effectiveness and political pressures [35][36]. These operational and environmental determinants illustrate that compliance is not solely a function of legal norms but is contingent on broader conflict dynamics, including territorial control, resource availability, and the immediacy of operational objectives [37][38].

### **Strategic and Calculated Compliance**

Actors' strategic considerations are central to understanding adherence patterns. Compliance is often instrumental, guided by potential reputational benefits, access to international aid, or the avoidance of sanctions, rather than intrinsic normative commitment [39][40]. For example, non-state actors may permit humanitarian convoys to operate in areas under their control to gain legitimacy and political leverage while simultaneously violating IHL in other operational aspects [41][42]. State actors may adopt expansive interpretations of IHL provisions to justify certain military actions, illustrating that compliance is frequently subordinated to strategic objectives [43][44]. The rational choice framework underscores that actors' behaviour reflects a calculation of costs and benefits, highlighting the intersection between legal norms, operational exigencies, and strategic incentives [45][46].

### **Institutional and Governance Implications**

Finally, governance and oversight mechanisms significantly influence compliance. Strong domestic legal institutions, military legal advisory bodies, and internal accountability systems enhance adherence by providing structured mechanisms to monitor, investigate, and discipline violations [47][48]. Conversely, weak governance, fragmented authority, and lack of institutional oversight undermine compliance, particularly among non-state actors or in regions where state control is contested [49][50]. International monitoring bodies, tribunals, and civil society organisations provide additional oversight, but their impact is limited when enforcement

mechanisms are weak or when actors calculate that violations are operationally advantageous [51][52].

## **4.0 Enforcement Mechanisms and Accountability in Asymmetric Conflicts**

### **4.1 International and Domestic Legal Mechanisms**

Enforcement of International Humanitarian Law (IHL) in modern asymmetric conflicts relies on a combination of international and domestic legal mechanisms [1][2]. International tribunals, such as the International Criminal Court (ICC), play a pivotal role in prosecuting war crimes and other serious violations of IHL. The ICC's mandate enables it to investigate and hold accountable both state and non-state actors, applying international legal standards to ensure justice for victims and deterrence of future violations [3][4]. Ad hoc tribunals, including the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), have historically addressed specific violations, providing jurisprudential precedents for prosecuting crimes in complex conflict settings [5][6]. However, the effectiveness of international tribunals is constrained by several factors. Limited investigative capacity, political resistance from state actors, and challenges in securing custody of accused individuals reduce the ability of tribunals to prevent violations proactively [7][8]. The procedural length and resource-intensive nature of international prosecutions further hinder their capacity to serve as immediate deterrents. Non-state actors, operating in fragmented or inaccessible territories, are particularly difficult to hold accountable, resulting in selective enforcement where only a subset of violations are prosecuted [9][10]. Domestic courts provide another layer of enforcement through the principle of universal jurisdiction, allowing states to prosecute individuals for grave violations of IHL regardless of where the offense occurred [11][12]. While universal jurisdiction expands the potential for accountability, practical implementation remains limited. Political constraints, insufficient evidence, and challenges in attributing violations in asymmetric conflicts weaken the deterrent effect of domestic prosecutions [13][14]. Moreover, the absence of functioning governance structures in conflict zones often precludes domestic enforcement, leaving a substantial gap in accountability for violations committed by non-state actors.

### **4.2 Monitoring, Reporting, and Technological Oversight**

Monitoring and reporting mechanisms constitute a critical component of IHL enforcement, particularly in conflicts where direct legal prosecution is infeasible [15][16]. International organisations such as the International Committee of the Red Cross (ICRC), United Nations human rights bodies, and non-governmental organisations (NGOs) document violations, provide guidance on compliance, and issue recommendations to actors in conflict zones [17][18]. Reports from Human Rights Watch, Amnesty International, and similar entities serve as evidence for legal proceedings and inform international diplomatic and humanitarian interventions [19][20]. Despite the crucial role of monitoring, these mechanisms face significant limitations. Monitoring organisations often lack enforcement authority, and their recommendations rely on voluntary compliance by actors who may perceive strategic advantages in disregarding legal norms [21][22]. In addition, accessibility challenges

in conflict zones impede real-time documentation, leading to delayed or incomplete reporting. Asymmetric conflicts frequently involve non-state actors operating clandestinely, further complicating verification of alleged violations [23][24]. Technological tools have emerged to supplement traditional monitoring. Satellite imagery, geolocation systems, and open-source intelligence platforms provide independent verification of attacks, displacement patterns, and civilian harm [25][26]. Such technologies enhance transparency, support evidence gathering for tribunals and courts, and improve situational awareness for humanitarian actors. Nevertheless, technology alone cannot fully overcome enforcement challenges, as attribution of responsibility, interpretation of proportionality, and strategic compliance considerations remain inherently human and context-dependent [27][28].

### **Effectiveness and Limitations of Enforcement Mechanisms**

Evaluating the effectiveness of IHL enforcement requires an understanding of both formal and informal accountability channels. International tribunals and domestic courts serve as formal deterrents but operate reactively and are constrained by legal, political, and logistical limitations [29][30]. Monitoring organisations and technological oversight function as preventive and evidentiary mechanisms, yet they cannot compel actors to comply or impose sanctions independently [31][32]. The literature consistently identifies gaps in enforcement as a central factor limiting compliance. Non-state actors often calculate that the strategic benefits of violations outweigh the risk of prosecution, particularly in low-visibility conflicts [33][34]. State actors may exploit ambiguities in IHL to justify operational conduct, further undermining the deterrent effect of formal enforcement mechanisms [35][36]. These limitations underscore the need for adaptive enforcement strategies that integrate legal authority with operational incentives, normative education, and international engagement [37][38].

### **Emerging Approaches to Strengthening Accountability**

Recent scholarship and policy recommendations emphasise adaptive strategies to strengthen compliance in asymmetric contexts. Engagement with non-state actors through structured legal education, context-specific codes of conduct, and linkage of compliance to international recognition or humanitarian access encourages adherence even in the absence of coercive enforcement [39][40]. State actors benefit from institutional integration of IHL through systematic training, legal advisory bodies, and internal reporting mechanisms to monitor, investigate, and discipline violations [41][42]. Multilateral coordination between the UN, ICRC, and regional organisations enhances visibility, documentation, and preventive interventions [43][44]. Public transparency, media coverage, and civil society advocacy create reputational pressures that incentivise compliance, particularly when international scrutiny is sustained [45][46]. Additionally, adaptation of IHL to address technological advancements, including drone operations, cyberattacks, and other modern modalities, is necessary to maintain the relevance of legal frameworks in contemporary conflicts [47][48].

## 5.0 Conclusion

This study has critically examined compliance with International Humanitarian Law (IHL) in modern asymmetric conflicts, highlighting the complex interplay between legal norms, strategic objectives, and operational realities. The analysis demonstrates that compliance is highly contingent on actor type, institutional capacity, enforcement mechanisms, and the broader conflict environment. State actors generally possess hierarchical structures, legal advisory systems, and formal mechanisms that facilitate adherence; however, political imperatives, counterinsurgency strategies, and military necessity claims often compromise compliance. Non-state actors, while legally bound under customary IHL and specific treaty provisions, demonstrate selective adherence, frequently guided by strategic considerations such as legitimacy, propaganda, and avoidance of sanctions. The study has also highlighted the limitations of current enforcement mechanisms. International tribunals, domestic courts, monitoring organisations, and technological oversight provide important frameworks for accountability, yet their effectiveness is often constrained by challenges in attribution, access, political resistance, and the reactive nature of enforcement. These gaps allow violations to persist, particularly in conflict environments characterised by weak governance, fragmented control, or low international visibility. The findings underscore the need for adaptive approaches that integrate legal enforcement with operational incentives, normative education, and multilateral coordination to enhance adherence and reduce civilian harm. Furthermore, the study has emphasised that compliance cannot be understood solely through legal texts. Effective adherence requires consideration of operational, environmental, and strategic factors that influence decision-making in asymmetric conflicts. Context-sensitive strategies, including engagement with non-state actors, capacity building for state forces, and utilisation of technological monitoring, can complement formal enforcement mechanisms and create conditions conducive to compliance. By synthesising legal, operational, and sociopolitical dimensions, this research provides a comprehensive framework for understanding adherence patterns and guiding future interventions in asymmetric warfare.

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