The Applicable International Law Regimes
to the Killing of Osama bin Laden

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Introduction

On the 2\textsuperscript{nd} of May 2011 President Obama announced the killing of Osama bin Laden – the founder of al-Qaeda group and its leader - by a special US military operation near Islam Abad based on US intelligence. Bin Laden was the most wanted suspect for the US authorities, as he was accused of committing the terrorist attacks of 11 September 2001 in Washington and New York and many other terrorist crimes.

From the legal angle, this essay discusses three regimes that can be applied in the killing of bin Laden; International Humanitarian Law or \textit{jus in bello}, International Human Rights Law and the use of force, \textit{jus ad bellum}, regimes.
States’ different approaches or interpretation of their right to counter terrorism will be mentioned. For example, one of the US justifications for killing bin Laden is to invoke article 51 of the UN Charter to the use of force for self-defence and as this state declared its “war on terror” *jus in bello* would apply, even taking into consideration that al-Qaeda is not a state.

This paper will state legal rules and principles that regulate the use of lethal force and upon which states should base their targeted killing strategies. It illustrates how states are unrealistic in their expectations of applying some of the above regimes, without being legally based, and conditions such as killing members of an armed group while they are unarmed. In addition, it is an unrealistic expectation of states to invoke killing bin Laden in other potential targeted killings because each case has its own circumstances that may totally change its legal position, not to mention that circumstances surrounded his killing were, to an extent, vague.
The Armed Conflict Regime and the Applicability of International Humanitarian Law (IHL)

In order to discuss the applicability of the IHL *jus in bello* in the situation of killing Osama bin Laden, it is important to determine the existence of an armed conflict situation between the United States of America (USA) and Al-Qaeda organization. Moreover, it is essential to define whether individual suspect terrorists of the mentioned group are considered as combatants or otherwise, because IHL is merely applied in armed conflicts. To reach this result, a division between international and non-international armed conflicts needs to be established. The rationale behind this classification is that the category of combatant and their entitlement to hostility are only recognized in international armed conflicts. The same thing is true regarding their privilege to immunity from responsibility of lawful fighting and their right to be considered as prisoners of war in cases of apprehension by the enemy, pursuant to Geneva Convention III.¹

The situation of the killing of bin Laden may not fall within an international armed conflict for several reasons. One of the most significant reasons is that Al-Qaeda group, led by the above mentioned terrorist, is not a state. Secondly, the US

is not at war with the state of Afghanistan. If bin Laden were killed in the US war against the Taliban government, which led Afghanistan up to 2001, international armed conflict would have been applied. Thirdly, there are some conditions mentioned in Geneva Convention III, fulfilment to which leads to considering persons in armed groups as prisoners of war (POW) if they fall under the authority of their enemy, article 4 (2) states:

(a) that of being commanded by a person responsible for his subordinates;

(b) that of having a fixed distinctive sign recognizable at a distance;

(c) that of carrying arms openly;

(d) that of conducting their operations in accordance with the laws and customs of war.

Therefore, as terrorist activities target civilians and breach most of these conditions in almost all their attacks, they cannot hold the situation of POW and subsequently members of terrorist groups cannot be considered as combatants in International armed conflicts.²

However, Israel has a different position. Although the approach of the Israeli Supreme Court was that each situation has to be judged individually,³ the court in the case of *The Public Committee against Torture in Israel et al. v. Government of*

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² Ibid at 631.
Israel et al held that the issue is examined merely by the rules of international armed conflicts, and that there is nothing which deals with non-international armed conflicts nor with IHRL.\(^4\) Israel has adopted targeted killing as a means of countering terrorism especially with Hamas leaders in the Gaza Strip.\(^5\)

In non-international conflicts, on the other hand, the idea is debatable. For some scholars there are no combatants; instead, there are two groups of civilians: those who participate in hostilities and those who do not.\(^6\) However, this concept has been rejected by most scholars and by the International Committee of the Red Cross (ICRC) whereby all members in armed groups are subject to attack at any time. This approach was adopted by the ICRC commentary on the Additional Protocol II of Geneva Conventions.\(^7\) However, as this approach may cover a wide range of individuals, whose participation may merely be ideological, the ICRC Interpretive Guidance has restricted this concept to individuals who directly participate in hostility.\(^8\) Pursuant to article 3 of Geneva Convention IV those who do not directly participate in hostilities “shall in all circumstances be treated humanely”.

\(^4\) The Public Committee against Torture et al. v. The Government of Israel, et al, Israel High Court of Justice, HCJ 769/02, Judgment of (14/12/2006).
\(^6\) David Kretzmer, supra note 1 at 632.
\(^8\) David Kretzmer, supra note 1 at 632.
According to the US point of view, there has been at least a non-international armed conflict with al-Qaeda and its alliance since September 2001. On 25 March 2010 in the Annual Meeting of the American Society of International Law, held in Washington DC, Harold Koh, a Legal Adviser in the U.S. Department of State referred to the situation of an ongoing armed conflict with the perpetrators of the 9/11 atrocities - the non-state actor, Al-Qaeda. Moreover, the US Supreme Court in *Hamdan v Rumsfeld* asserted the existence of the situation of armed conflict and that Common Article 3 of Geneva Conventions 1949 would apply.

Russia seems to have an identical approach. In 1996, this state was allegedly involved in killing Dzhokhar Dudayev, the Chechen separatist leader, by a rocket in Chechnya. In 2006, the parliament authorized the Russian security services, with the consent of the president, to kill terrorists outside of Russian soil. This state has reserved its right to fight terrorists and refused to be subject to any investigation regarding its military operations combating terrorism. According to the Russian point of view, selected killings in Chechnya are justified as the necessity of its war on terror, not to mention, terror in Russia may have a broad

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meaning according to which a wide range of people may be described as terrorists.\textsuperscript{13}

Some scholars refer to an argument by the US Government before the Supreme Court in the case of *Hamdan v Rumsfeld* that there is a gap between international and non-international armed conflicts “and that ’the global war on terror’ fell in the gap”.\textsuperscript{14} In any case, killing bin Laden embodies the concept of targeted killing\textsuperscript{15}, which is governed by the rules of IHL during armed conflicts. It may be a deprivation of life governed by the IHRL, from another point of view-as it will be mentioned below.

It is acknowledged that there was no armed conflict between the US and Pakistan where bin Laden was killed. Nevertheless, it may not be accurate to entirely reject\textsuperscript{16} the applicability of IHL because there was at least an ongoing non-international armed conflict between the US and Al Qaeda -based on a self-defence justification-, which may be described as borderless and sporadic armed conflict. Bin Laden, was the leader of that armed group.\textsuperscript{17} Therefore, it can be said that article 3 of Geneva Convention III and customary IHL can be applied.

\textsuperscript{13} Philip Aliston, *supra* note 3 Para 23, 24 at 8, 9 respectively.
\textsuperscript{16} Some scholars refer to the objection of Pakistan against the US use of force in this country from Afghanistan which leads to the absence of military cooperation between the US and Pakistan. Consequently, the inapplicability of IHL on the US targeted killing for terrorists in Pakistan as there would be no armed conflict, instead they refer to the applicability of IHRL based on arbitrary or extrajudicial killing, see IBA, *supra* note 14 at 48.
\textsuperscript{17} Ibid, at 46, 47.
Subsequently, members of armed groups who participate directly in hostility are legitimate targets at any time, though taking some conditions, imposed by the ICRC Interpretive Guidance regarding military necessity and humanity, into consideration is essential.\(^\text{18}\) In other words, it may be unlawful to use lethal force when capturing the individual suspect in question is possible safely.\(^\text{19}\) On this ground, if the US force involved could have captured bin Laden without risks then killing him would not fall within this regime.

By contrast, some writers argue that necessity is not always required by IHL. Here, in the situation of bin Laden, the attacking force did not need to seek to capture him before using lethal force, as long as he was not *hors de combat* i.e. incapacitated or surrendered. Also, the US unit was not obliged to put its members at risk by trying to detain bin Laden because he had, in the past, instructed his followers to commit suicide attacks and led them in their terrorist activities; moreover, he had promised not to be arrested alive.\(^\text{20}\) Therefore, a question may arise, in a similar situation, as to whether the US drone attack on a Taliban leader, Baitullah Mehsud, in Pakistan in August 2009\(^\text{21}\) was legitimate, as he was on the

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\(^{19}\) David Kretzmer, *supra* note 1 at 637.


roof of his house receiving medical treatment, an intravenous transfusion at the time of the attack which led to his death. This may violate the principle of protecting those who are hors de combat, regulated by article 3 of Geneva Convention III because he was incapacitated. However, one may argue that Baitullah was one of the famous leaders of the most dangerous terrorist organisations in the world at least at that time, al-Qaeda, which has been responsible for most of the heinous terrorist attacks and they do not hesitate to use suicide bombing to kill people at any time. This reality may justify his killing despite some views that there is no approval by liberal principles on targeted killing, even with most dangerous offenders and the same thing could be applied to the killing of bin Laden. On the other hand, Kendall considers the killing of Abu Ali Mustafa -leader of the Popular Front for the Liberation of Palestine, by Israel, as proportionate because he was involved in the killing of many people including civilians.

However, some scholars have argued that targeted killing is a breach of customary IHL, citing article 148 of the Lieber Code concerning the banning of

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assassinations. In addition, Rogers and McGoldrick cited The UK *Manual of Military Law* (1958) as:

> Assassination, the killing or wounding of a selected individual behind the line of battle by enemy agents or partisans, and the killing or wounding by treachery of individuals belonging to the opposing nation or army, are not lawful acts of war.\(^{27}\)

Targeted killing is based on the assumption of guilt\(^ {28}\) and here one may ask whether there were alternatives for bin Laden that might have kept him from being killed by the raider force. It is clear that bin Laden was the first leader of al-Qaeda; subsequently, he was a member of an armed group taking an ongoing direct part in hostilities without complying with any rules or customs of war. Using different unlawful tactics to cause his targets maximum damages and casualties might have led him to lose any trust -by the US military unit- in his decisions if he wanted to surrender. For example, bin Laden might have indicated, fraudulently, that he and his bodyguards would intend to surrender and while the US military unit supposedly was trying to arrest him, he would have attacked the force by suicide bombers. Therefore, the only available option for bin Laden would have been to appear without any doubt


\(^{28}\) Michel Gross, *supra* note 26 at 328.
that he safely would surrender to the attacking unit.\textsuperscript{29} Otherwise –and that appears to be what happened- the use of lethal force was entirely acceptable.\textsuperscript{30}

**IHRL and Law Enforcement Regime**

It is a rule of human rights conventions\textsuperscript{31} and customary laws that states are responsible for the protection of the life of people and that the latter must not be arbitrarily deprived. Among these conventions is the European Convention on Human Rights (ECHR), which confirms this principle within the jurisdiction of states\textsuperscript{32}, the American Convention on Human Rights 1969 in Article 4 (1) which states that "[e]very person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life".

However, a question may arise as to whether the obligations mentioned above bind states outside their territory, particularly if those states where individual suspects exist are unable or unwilling to take required reactions against accused persons. There have been different approaches by international conventions of human rights about the scope of the obligation of states. While the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on

\textsuperscript{29} Marko Milanovic, *supra* note 20.

\textsuperscript{30} David Kretzmer, *supra* note 1 at 653.

\textsuperscript{31} These conventions include: International Covenant on Civil and Political Rights (ICCPR), American Convention on Human Rights (ACHR), African Charter and European Convention on Human Rights (ECHR), see David Kretzmer, *supra* note 1 at 639.

\textsuperscript{32} See article (2) 1 of the European Convention on Human Rights 1950.
Human Rights (ECHR) agree, to an extent, on the protection of human rights within their jurisdictions, the African Charter is silent towards restricting the range of the obligations to the jurisdiction or territory of states. Paragraph (10) of General Comment 31 of the ICCPR confirms that all individuals within the territory of state parties and on their territory can take advantage of the Covenant and those over whom states have “effective control” outside its territory. With this explicit expression, the US does not seem to be satisfied that the ICCPR has an extraterritorial jurisdiction. Therefore it rejected the extraterritorial application of the Covenant and whether it is applicable in armed conflict alongside IHL as paragraph (11) asserts on this jurisdiction. The US approach is that the Covenant is restricted to individuals “within the territory of a State Party and subject to that State Party’s jurisdiction”. Israel has, to an extent, tended to choose the same position to refuse the application of the Covenant on the Palestinian soil, with regard to its operations. As far as the application of the ECHR is concerned, the High Court of Justice in the Al-Skeini case restricted the application in the operations of the British forces in Iraq with the approval of the Iraqi government, when the British forces had

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33 For example, article (1) of the ECHR states that: “The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention”.
35 APV Rogers and Dominic McGoldric, supra note 15 at 784.
effective control over persons whom they –the British forces - detained but not those whom they shot in the field.37 Even this approach might have not been applied in the situation of bin Laden because the US did not have effective control over the latter, although Pakistan did not insist on the lack of its consent. It could have been followed if the US unit had arrested bin Laden. At that time, the latter would have been within the jurisdiction of the former, and subsequently the ICCPR might have been applicable.38

Returning to states’ responsibility for protecting human life, the IHRL is no less protective than IHL, even more, while killing may be lawful under some circumstances in IHL, it may not be so according to IHRL. However, the human right to life is not absolute. Exceptionally, and under some circumstances with restricted requirements, state authorities may internationally deprive a specific category of criminals of their lives, without such action being considered as an arbitrary deprivation of life.39 Nevertheless, alternatives should be exhausted before using lethal force i.e. there is no possibility to arrest the individual suspect without using this force.40 The ICCPR has not mentioned the exceptions explicitly 41 but Article (2) 2 of ECHR states the exceptional situations:

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37 R. (on the application of Al-Skeini) v Secretary of State for Defence, CO/2242/2004, Divisional Court (14/12/2004), Para 334.
38 APV Rogers and Dominic McGoldrick, supra note 15 at 785.
39 However, ECHR state members apart from Russia have ratified protocol 6 on the abolishment of death penalty except in situations of war and in specific crimes, protocol 13 abolishes this penalty completely, see David Kretzmer, supra note 1 at 639.
40 Ibid, 645; Marko Milanovic, supra note 20.
41 See article 4 (1) of the ICCPR 1966; IBA, supra note 14 at 97.
(a) In defence of any person from unlawful violence;
(b) In order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
(c) In action lawfully taken for the purpose of quelling a riot or insurrection.

Law enforcement regime is based on a notion that terrorists are criminals and consequently they must be dealt with by the police, although in the situation of bin Laden, the US unit was not the police, who are authorized to use lethal force when required. However, proportionality in IHRL and the notion of due process restrict killing to a narrow range and lethal force must be absolutely necessary i.e. when the suspect individual poses unlawful violence, an imminent and immediate risk or a real threat to the lives of others.

As far as the situation of bin Laden is concerned, the question about his reaction to the raid was arguable. Although some reports were written that he was shot after refusing to surrender and after he resisted the US Navy SEALs, others indicated that he was not armed when killed.

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42 The European Convention on Human Rights 1950 was supplemented by protocol 13 in 2002 which has prohibited death penalty since then in all circumstances. All derogations and reservations on the protocol have been prohibited by articles 2 and 3.
44 Michel Gross, supra note 26 at 323.
45 Philip Aliston, supra note 3 Para 32 at 11.
If bin Laden were unarmed when raided, it means that there was less risk to the members of a Navy SEALs team that attacked him than if he was not and it raised the possibility of arresting him without risk. Subsequently, it could have weakened the belief that the use of lethal force was proportionate and necessary since there were no real signs of resistance by bin Laden personally. However, the risk may have remained if no one could absolutely guarantee that bin Laden was not wearing invisible explosive belt. But, apparently, the only reaction to the operation was by the courier of bin Laden, Abu Ahmed al-Kuwaiti, who fired on the US attacking unit and as a result, he was shot dead immediately, by the latter. On this ground, the situation regarding bin Laden could be considered as “intentional, premeditated and deliberate killing” which may breach the rules of human rights law under ICCPR rules as arbitrary deprivation of life, but the issue is that the US does not appear to apply the rules of the ICCPR as mentioned above. Under IHRL, killing should not be the “sole objective” of the military mission, which may be acceptable only by IHL.

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48 Peter Walker and Haroon Siddique, supra source.

49 Article 6 of the ICCPR 1976; Marko Milanovic, supra note 20.

50 Philip Aliston, supra note 3 para 33 at 11.
Nonetheless, one should bear in mind that arguing about bin Laden as being unarmed during the raid could be immaterial,\textsuperscript{51} because al-Qaeda and other terrorist groups usually adopt tactics of surprise and sudden attacks in their activities without considering themselves bound by laws or customs. This and the history of the activities of such groups might have created a strong belief among the members of the US attacking unit that the latter expected suicide bombers at any time as a means of defence, not to mention bin Laden having taken an oath not to be arrested alive.\textsuperscript{52}

These factors have led counter-terrorism systems to adopt a strategy to attack terrorists before the latter start their attack.\textsuperscript{53} During a personal meeting with Major General Halo Hamzah on December 2015, chief of Kirkuk Asaîsh Directorate (literally Kurdish security forces), mentioned that "in one of our operations to arrest two suspected terrorists in the centre of Kirkuk city in April 2014, my officers had checked every single part of the suspected terrorists' bodies, but had not searched their sexual organs to keep the minimum level of human rights respected. But we were surprised by one of them detonated himself pre the entry of our head office causing his and his partner's death with some injuries among my operational officers". He added "after investigations, it appeared that they had been wearing a tiny type of explosives invisible unless their sexual organs are checked". Therefore,

\textsuperscript{51} Marko Milanovic, supra note 20.

\textsuperscript{52} APV Roger and Dominic McGoldrick, supra note 15 at 783.

\textsuperscript{53} David Kretzmer, supra note 1 at 646.
and based on these arguments, it can be said that killing bin Laden was more likely to be lawful under the principles of IHRL than to be unlawful.

**The Jus Ad Bellum Regime**

The obligation of states to respect the sovereignty and independence of other states is mentioned under article (2) 4 of the Charter of the United Nations (UN). Pursuant to this article, states are not allowed to conduct military operations within the territory of other sovereign states without the agreement of the latter, except in situations mentioned in article (51) of the Charter, which are self defence against armed attack and the authority of the Security Council under chapter VII.\(^{54}\)

On this basis, the US has reserved its right to the use of force for self-defence against perpetrators of 11 September declaring a ‘war on terror’.\(^{55}\) In addition, it has invoked Security Council resolution 1368 “to take all necessary steps to respond to the terrorist attacks of 11 September 2001”.\(^{56}\) As far as killing bin Laden is concerned, it is questionable whether the US had Pakistan’s approval for military operations on its soil. There is no application of *jus ad bellum* if the US had Pakistan’s consent, but the problem is if Pakistan did not agree to the US operation which ended with the killing of bin Laden. In this situation, the US has depended on the exception of self-defence against an armed attack mentioned in article (51)

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\(^{54}\) Charter of the United Nations, (24/10/1945); David Kretzmer, *supra* note 1 at 619.

\(^{55}\) Harold Koh, *supra* note 10.

\(^{56}\) Para 5 of Security Council Res. 1368 of (2001), UN Doc. SC/7143.
to justify its military operation\textsuperscript{57} and on Security Council Resolution 1373, which has been unanimously adopted “to combat international terrorism”.\textsuperscript{58} However, the US interpretation of the exception in the Charter is debatable. It is true that this state was severely attacked on the 11\textsuperscript{th} September 2011 and reserved its right to self-defence against the offenders and those who supported them, but the question that may arise is whether terrorist attacks by non-state actors amount to armed attacks mentioned under article (51) of the Charter. David refers to the view that is held by most experts, that terrorist attacks may amount to armed attacks mentioned in article (51) to an extent. On the other hand, in the \textit{Legal Consequences of Construction of the Wall} the ICJ in its Advisory Opinion holds that only attacks by another state can justify self-defence under article (51).\textsuperscript{59}

Nevertheless, the right of self-defence exercised by a state in the territory of another depends on the ability and willingness of the host state to respond effectively against the terrorist group. The ground for the military operation is that Pakistan knew or should have known that the Leader of Al Qaeda, Osama bin Laden, was on its soil. In addition, the mentioned group committed heinous terrorist attacks in the United States and that there was an ongoing threat to the security of this state by the

\textsuperscript{57} APV Rogers and Dominic McGoldrick, \textit{supra} note 15 at 787.
\textsuperscript{58} Security Council Res. 1373 (2001), UN Doc. SC/7158.
\textsuperscript{59} David Kretzmer, \textit{supra} note 1 at 620, 621.
existence of the group and that the military operation was needed and was proportionate as a response.60

The Applicability of Multiple Regimes and Expectations of States

Needless to say that *jus in bello* (IHL) should be applied wherever a *jus ad bellum* regime applies and that the former is a consequence of the latter. Although each of the regimes has a different parent and aims to achieve its own goals, following rules that may be different, there are some parallel directions, to an extent, between some regimes. There is a general agreement that IHRL applies where IHL is applicable as will be discussed below.61

Countering terrorism may not justify the violation of IHL principles. Terrorists may have multiple statuses, the one that is similar to combatants, to an extent, in the battlefield, and the status that is close to civilian or non-combatant when they are targeted.62 However, to give preponderance over one of the regimes –IHL and IHRL- in a case where both are applicable, the International Court of Justice (ICJ) in *Nuclear Weapons Advisory Opinion* took the view that IHL has application.63 As far as the use of lethal force is concerned in counter-terrorism operations, *lex specialis* application of IHL regulates selected killing during armed conflicts, but in the

60 APV Rogers and Dominic McGoldrick, *supra* note 15 at 787.
61 IBA, *supra* note 14 at 41.
62 Michel Gross, *supra* note 26 at 324.
absence of an armed conflict, IHRL should apply to protect the right to life and to limit arbitrary deprivation of it. 64 By this interpretation, when the situation of bin Laden was in accordance with the rules of IHL, then the killing was not arbitrary. However, where the applicability of IHL was unlikely, one may seek to find a legal ground under IHRL norms and law enforcement regime to find the fulfilments of principles of proportionality and necessity, otherwise the deprivation of the life in these circumstances may be arbitrary. 65

The problem is that each state has its own interpretation of data to adapt targeted killing to one of the above regimes in a direction according to their interests. While there are rules and principles which should be followed in using lethal force.

Invoking a regime in targeted killing –including killing bin Laden- without standing on a legal basis leads to unrealistic expectations of states. For example, Israel’s description of its efforts to counter terrorism in the West Bank as international armed conflict 66 may lead to unrealistic expectations because Hamas is not a state, neither does Israel recognize Hamas or Palestine as a state. Moreover, a question may arise about the US description of a terrorist attack as an armed attack and to the use of force as a right of self-defence. Furthermore, if killing bin Laden is supposedly judged as legitimate, it cannot be considered as an ideal case law to be a legitimate legal basis for future targeted killing i.e. other states should not follow the US

64 IBA, supra note 14 at 42, 43.
65 APV Rogers and Dominic McGoldrick, supra note 15 at 786.
approach for two reasons. First the circumstances that surrounded the killing of bin Laden were not clear and there were different narratives of events particularly as to whether he was armed or he resisted. Secondly, each targeted killing may have its own circumstance as to whether it is during armed conflict, or whether the target is a combatant or *hors de combat*, the degree of danger, the chances of surrendering or being arrested. Therefore, it will create unrealistic expectations in those states that follow the US approach, without being based on a suitable legal basis in each situation.

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Conclusion

In general, three regimes are applicable in killing terrorists which are International Humanitarian law, International Human Rights Law and the *jus ad bellum* regime. However, as far as killing bin Laden is concerned the situation is controversial. IHL is applicable because there was at least a non-international armed conflict between the US and al-Qaeda group, which was led by bin Laden. In addition, and as a basic rule, IHRL might have been applied if the US was bound by the ICCPR outside its border. The reason is that bin Laden was accused of committing many heinous crimes and in order to arrest him the use of lethal force may be justifiable, especially if there were risks to the lives of the arresting force members by the suspect's side. This is because the right to life is not absolute and there can be a deprivation of human life under some narrow situations, for example, signs of lethal resistance to the raid rather than clearly surrendering. However, and in fact, the IHRL does apply to the situation of killing bin Laden because the US does not appear to be bound by the provisions of the ICCPR outside its soil where it has no effective control.

Another applicable regime is the *jus ad bellum*, as the US reserves its right, under article 51 of the UN Charter and under some security Council resolutions including the Resolution (1373), to the use of force for self-defence after the heinous terrorist attacks on 11 Sep 2011.
Nevertheless, killing bin Laden was problematic in some aspects. First, bin Laden was a dangerous suspect having responsibility for committing heinous terrorist attacks all over the world. The nature of his activities, which were mostly based on abruptness and perfidy, was far from any rules that were and are followed during conflicts, and this might have been a reason that led him to be killed rather than being arrested. Secondly, he was killed on Pakistani soil by a US military unit which might have violated the sovereignty of the former state. Thirdly, different stories surrounded the killing of bin Laden and it was not confirmed as to whether he was armed or he resisted the US raid. These reasons may make the case unique and prevent it of being a legal ground for future potential targeted killings as ideal case law. Finally, states, including the US, may adapt counter terrorism measures to IHL, IHRL, or *Jus ad bellum* in a way that falls within their interests rather than being legally fit or legally accepted. For example, the Israeli describes its war on terror against the armed group Hamas, in the West Bank, which is not a state, as international armed conflict while it refuses to recognize Palestine as a state.
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