The Legality of U.S.-Israel Strikes on Iran

Mains: *GS-II – International relations*

Why in News?

UNESCO has condemned the U.S., and Israel launched coordinated strikes across Iran as a grave violation of International Humanitarian Law (IHL), or the 'laws of war', which is designed to limit the human suffering caused during 'armed conflict'.

What about the International Humanitarian Law (IHL)?

- **IHL** – It is a set of rules established by treaty or custom that *limits the effects of armed conflict for humanitarian reasons*.
- **Codified by** – The *Geneva Conventions of 1949*, complemented by their Additional Protocols, along with the Hague Regulations.
- **Aim –** To balance military necessity with humanitarian principles to prevent unnecessary suffering.
- **Background –** Morals and ethics in conflicts have deep historical roots dating back to ancient Greek, Roman, Indian, and Chinese civilisations, they were codified in their modern form, i.e., IHL.
- **Four core principles** – To regulate the conduct of hostilities - 'distinction', 'proportionality', 'military necessity', and 'precaution'.
- **Applicability** – It applies equally to *all parties in an armed conflict*, regardless of who started it, but does not cover internal tensions or isolated acts of violence.
- **Distinction** – Unlike the UN Charter, which addresses the legality of starting a war (jus ad bellum), IHL governs how wars are fought (jus in bello) and ensures humane conduct regardless of the war's initiation.
- **Protection Areas** – It covers the protection of civilians, wounded personnel, prisoners of war, and objects necessary for survival (e.g., food, water).
- **Restrictions** – It limits the types of weapons used and methods of conducting operations, such as prohibiting the targeting of civilians.

What is the legal justification for this attack?

- **UN Charter Framework**
- **Article 2(4)** – Prohibits all member states from threatening or using force against the 'territorial integrity' or 'political independence' of another state.
- **Security Council Authority** – Only the UN Security Council may authorise the 'use of force' against a member state in response to breaches of international peace.
- **Article 51 (Self-Defence)** – The sole exception is Article 51, which permits the 'use

of force' in self-defence, but only in response to an actual armed attack.
- Under this framework, neither Israel nor the U.S. can legitimately claim self-defence under Article 51, whether individually or collectively.
- International law does not allow force in self-defence against an attack that has not yet happened.
- **Anticipatory Self-Defence Argument** – At most, the claim rests on preventing a potential future Iranian attack (nuclear or otherwise) under the theory of self-defence in response to an imminent threat.
- **3 Conditions often cited** – The use of force against Iran would be lawful only if three conditions were met -
    - **Intent** - Iran's leadership had decided to attack the U.S. or Israel;
    - **Capability** - Iran possessed the capability to do so; and
    - **Necessity** - The 'use of force' was necessary now because this was the last window of opportunity to prevent that future attack.
- **Weaknesses in this Case** – Iran's nuclear program was already degraded in 2025; Trump claimed it was "obliterated."
- Since then, no evidence has been presented to show that Iran's reconstitution, weaponisation, or intent to strike; thus, the "imminent threat" claim lacks credibility.
- **Other Justifications Rejected** – Neither regime change nor protecting Iranians from their own government's abuses is recognised in international law or the UN Charter as a valid reason to use force.

Why is the Minab Strike a grave breach?

- **Civilian Target** – A girls' primary school is a protected civilian object, it killed ~150, ~100 injured — overwhelmingly children.
- **Violation of IHL principle** – When the missile struck the girls' school in Iran, it *broke the principle of distinction*, which requires separating military targets from civilians and civilian sites like schools, hospitals, and places of worship.
- If there is any doubt, the target must always be treated as civilian.
- **Reinforcing Legal Instruments**
- **Convention on the Rights of the Child** – It strengthens this protection by recognising children as rights-holders and requiring states, under Article 38(4), to take all possible steps to safeguard and care for children affected by armed conflict.
- **Rome Statute (ICC)** – It defines the intentional targeting of civilians and attacks on buildings dedicated to education as war crimes.
- **Exception** – If the civilian objects lose protection if used for military purposes (e.g., base, artillery site, command post).
- **Current Case** – There is no evidence that Minab school was militarised or deliberately targeted.

How should the strike be assessed under IHL?

- **Collateral Damage under IHL** – If the school was not deliberately targeted but damaged as collateral harm from a strike on a nearby military facility, IHL still applies.
- Civilian sites can be incidentally affected, but only within strict limits.
- **Legal Standards** – For incidental harm to civilians or civilian objects is lawful only if

it satisfies conditions to meet requirements of 'proportionality', 'precaution', and 'military necessity'.

- **Assessing the School Strike** – When a school is near a military target and suffers damage, legality depends on -
  - Whether the harm to children was excessive compared to the military gain.
  - Whether commanders verified the target, checked for nearby civilians, chose weapons that limited damage, and timed the strike to reduce risks.

What is the role of international law?

- **Misconceptions** – Critics often argue that frequent violations show international law is irrelevant.
- Yet this view misunderstands how international law functions; while breaches do occur, sometimes openly, they remain exceptions to an overwhelmingly compliant pattern of behaviour.
- **Everyday Compliance** – Day-to-day activities like diplomacy, trade, aviation, shipping, environmental cooperation, arms control, and treaty commitments mostly function within the rules of international law.
- **Significance** – International law's strength lies not in perfect compliance but in its ability to demand justification.
- It forces those in power to explain their actions before the global community.
- Though imperfect, this accountability system ensures that violations can be identified, scrutinised, and condemned.
- **The Real Challenge** – The challenge today is not the absence of law, but the *need for states to comply with it rather than bend* it to politics.
- When bombs fall on classrooms and playgrounds, it is not only lives that are lost; it is the futures of children that are extinguished.

Reference

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