

**AN EXAMINATION OF THE ROLE OF THE ICRC HUMANITARIAN DIPLOMACY  
IN MITIGATING HUMAN SUFFERING IN THE ARMED CONFLICT IN  
AFGHANISTAN (2002-2014).**

**By**

**TONGAI DANA**

**A DISSERTATION SUBMITTED IN PARTIAL FULFILMENT OF THE  
REQUIREMENTS OF THE MASTER OF SCIENCE DEGREE IN INTERNATIONAL  
RELATIONS**

**DEPARTMENT OF POLITICAL AND ADMINISTRATIVE STUDIES**

**FACULTY OF SOCIAL STUDIES**

**UNIVERSITY OF ZIMBABWE**

**APRIL 2015**

## **DEDICATION**

To the lady in my life Moline Siyanda, relatives, comrades and friends and above all the Lord God my ability, you supported me all the way.

## **ACKNOWLEDGEMENTS**

My sincere gratitude goes to my supervisor, Mrs. E. Nyemba who all the way assisted me to complete this work. Without her firm but fair supervision, I could not have done it. Sometimes when I thought I had done the best anyone could do, she always had recommendations for improvement.

I would also like to extend my humble thanks and acknowledgement to the tremendous support given by all respondents who contributed in their different capacities to this research. I thank them for availing themselves for the study and for providing valuable information and insights.

The support from the Lord is always greatly acknowledged.

## **LIST OF ACRONYMS**

AD	Additional Protocol
BBC	British Broadcasting Cooperation
CNN	Cable News Network
FARC	Revolutionary Armed Forces of Colombia
GC	Geneva Conventions
GWAT	Global War against Terrorism
IAC	International Armed Conflict
ICRC	International Committee of the Red Cross
ICT	Information, communication and technology
IEDs	Improvised Explosives Devices
IHL	International Humanitarian Law
IHRL	International human rights law
ISAF	International Security Assistance Forces
JWT	Just War Theory
ME	Middle East
MPLA	Movement for Popular Liberation of Angola
NATO	Non-Atlantic Treaty Organisation
NIAC	Non-International Armed Conflict
OEF	Operation Enduring Freedom
OIC	Organization of the Islamic Conference

POLAD	Political Science and Administration
POW	Prisoners of War
SADC	Southern Africa Development Communalitiy
UK	United Kingdom
UN	United Nations
UNITA	Total Independence of Angola
UNOWA	UN Office for West Africa
UNSC	United Nations Security Council
US	United States of America
USA	United States of America
UZ	University of Zimbabwe
WAT	War against Terror
WMD	Weapons of Mass Destruction
WW1	First World War
WW2	Second World War

## ABSTRACT

Mitigation of human suffering in Afghanistan has been a mammoth task and remains a cause of concern. The currently ongoing phase which started in 2001 has been characterized with disregard of IHL, grave human suffering, given the increased use of more injurious means and methods of warfare by warring parties. In response, the ICRC has been engaging its humanitarian diplomacy to ensure development of IHL and parties compliance it, all for the alleviation and prevention of human suffering. Based on the hypothesis that, the ICRC humanitarian diplomacy in the armed conflict in Afghanistan from 2001 to 2014 has made positive impact in respect to mitigation of human suffering. The main objective of this study was to examine the impact of the ICRC humanitarian diplomacy in ensuring the alleviation of human suffering in Afghanistan from 2001 to 2014. In that context following were the specific objectives of the study were; to discuss the humanitarian diplomacy of the ICRC as a key concept in the mitigating human suffering in Afghanistan from 2001 to 2014 as in other armed conflict situations; to discuss asymmetric warfare as a concept and it's bearing on the mitigation of human suffering in light of the armed conflict in Afghanistan form 2001 to 2014 and to suggest recommendations for the improvement of the effectiveness of the ICRC humanitarian diplomacy in mitigating human suffering in Afghanistan. The study used qualitative research methodology. Data was collected using documentary and key informant, in-depth interviews. In this respect, content and thematic analyses were used in the presentation and analysis of findings. The findings of the study have established that; the humanitarian diplomacy of the ICRC in Afghanistan from 2001 to 2014, has been delivering concrete results in ensuring the alleviation and prevention of human suffering. It resulted to more consideration by warring parties and other relevant stakeholders of the need to mitigate human suffering in Afghanistan, reduction of civilian deaths and casualties, securing of humanitarian access and space by the ICRC to mention but a few. However, the ICRC humanitarian diplomacy in Afghanistan continue to face challenges due to, the realistic nature of warring parties who pursue their self-interests at the expense of mitigation of human suffering, the overemphasis of confidential dialogue by the ICRC where public discussions will be feasible and above all, the discrepancy between the existing body of IHL and the asymmetric internationalized-NIAC in Afghanistan. Against this bedrock, the study surmised that though the ICRC humanitarian diplomacy in Afghanistan may not have been effective in all situations and continues to face challenges, it has made great impact and remains necessary rather than optional. To this end, the study recommended that; for continued relevance of IHL, relevant actors (state and non-state) need to acknowledge the limitations of existing body of IHL and to address them rather than avoiding them, warring parties in Afghanistan should desist from pursuing self-interest in disregard of the human suffering that result from their actions and that, the ICRC should be avoid overemphasising confidential dialogue were public discussions will be feasible.

# TABLE OF CONTENTS

## Contents

DEDICATION .....	i
ACKNOWLEDGEMENTS .....	ii
LIST OF ACRONYMS.....	iii
ABSTRACT.....	v
TABLE OF CONTENTS.....	vi
CHAPTER ONE .....	1
INTRODUCTION .....	1
1.1 Background to the Problem .....	1
1.2 Statement of the Problem .....	3
1.3 Objectives of the study .....	4
1.4 Hypothesis.....	4
1.5 Justification of the Study.....	4
1.6 Literature Review .....	5
Adjusting IHL Provisions to Meet the Changing Nature of Armed Conflicts .....	5
Engagement of Humanitarian Diplomacy .....	6
1.7 Theoretical Framework.....	8
The Pluralist Liberalist theory .....	8
Classical Realism Theory .....	8
The Just War Theory (JWT) .....	10
1.8 Conceptual Framework.....	10
Armed Conflicts.....	10
International Humanitarian Law (IHL) .....	11
The Term “Civilian” .....	11
Non-State Actor / Organized Armed Groups .....	12
Asymmetric Warfare.....	12
The Concept of Diplomacy .....	12
1.9 Methodology of the Study .....	13
1.10 The Research Study Area .....	13

1.11 Sampling Techniques .....	14
1.12 Data Collection.....	15
1.13 Ethical Considerations.....	16
1.14 Data Analysis and Presentation .....	16
1.15 Delimitations of the Study .....	16
1.16 Limitations of the Study .....	17
1.17 Structure of the Dissertation .....	17
CHAPTER TWO .....	19
The ICRC and Humanitarian Diplomacy .....	19
2.0 Introduction .....	19
2.1 The ICRC as an International Actor .....	19
2.3 The Historical Context.....	19
2.4 The International and Legal Status of the ICRC .....	21
2.5 The Humanitarian Diplomacy of the ICRC.....	22
2.6 Key Principles of the ICRC Humanitarian Diplomacy .....	23
2.7 The Unique Factors of the Humanitarian Diplomacy Compared to Traditional Diplomacy. ....	24
2.8 Roles of Humanitarian Diplomacy in Mitigating Human Suffering in Armed Conflicts: A General Overview. ....	28
2.9 The Challenges for Humanitarian Diplomacy in the 21st Century.....	30
2.10 Conclusion.....	31
CHAPTER THREE .....	32
Effects of the Asymmetric Armed Conflict in Afghanistan on Mitigation of Human Suffering. ....	32
3.0 Introduction .....	32
3.1 A Historic Overview of Asymmetric Armed Conflicts .....	32
3.2 Three types of asymmetric warfare: terrorism, guerilla warfare, and insurgency in the 21 <sup>st</sup> century. ....	34
3.3 Terrorism.....	34
3.4 Guerrilla Warfare .....	34
3.5 Insurgency .....	35
3.5 Afghanistan: An Asymmetric Armed Conflict. ....	36
Huge Disparity of Technological and Military Power Capacity between Warring Parties.....	36
Proliferation and Fragmentation of Non-state Armed Groups Motivated by Personal, Political, Economic and Religious Impulses .....	36



Highly Dynamic, Lack of Clear-cut Spatial and Temporal War Front Demarcations and Use of Unconventional Means and Methods of Warfare .....	37
The Effects of Asymmetric Warfare on Mitigation of Human Suffering.....	38
3.6 Conclusion.....	39
CHAPTER FOUR .....	40
Role and impact of the ICRC humanitarian diplomacy in mitigating human suffering in Afghanistan: Findings .....	40
4.0 Introduction .....	40
4.1 Securing of Humanitarian Access and Space to Conduct Humanitarian Activities for the Mitigation of Human Suffering. ....	40
4.2 Mitigation of Human Suffering of Persons Detained in Relation to the Armed Conflict in Afghanistan .....	41
<b>Fig 2: Humanitarian Activities Conducted by the ICRC for the Mitigation of Human Suffering of Persons Detained in Relation to the Armed Conflict in Afghanistan in the Period Between April and June 2014.....</b>	<b>42</b>
<b>Figure 3: Detainees at Kandahar Prison and Guantanamo Bay Connecting with Their Families through Video Conferencing and Phone Communication during a Visit by the ICRC. ....</b>	<b>43</b>
4.3 Provision of Healthcare to Armed Conflict Victims. ....	43
<b>Fig 3: Humanitarian Activities Related to Ensuring Provision of Effective Healthcare to Victims of Armed Conflicts for the Mitigation of Human Suffering Between April and June 2014.....</b>	<b>45</b>
4.4 Provision of a Platform for the Dissemination of Information on IHL and Reminding Warring parties of the Obligation to Comply with IHL. ....	45
4.5 Dissemination of IHL Information .....	45
4.6 Reminding Warring parties of the Obligation to Comply with IHL. ....	46
<b>Fig 4: Reduction of US and NATO Military Operations Civilian Casualties Statistics in Afghanistan between April and June 2014. ....</b>	<b>48</b>
4.7 Ensuring Strategic Development, Presentation of IHL to Parties and Devising of Compliance Approaches that Meet the Unique Characteristics of the Conflict.....	48
4.8 Strategic Development of IHL. ....	48
4.9 Strategic Presentation of IHL to Warring Parties.....	49
4.10 Strategic Crafting of IHL Compliance Approaches .....	49
4.11 Limiting Factors to the Role of the ICRC Humanitarian Diplomacy in Mitigating Human Suffering in Afghanistan from 2001-2015 .....	50
<b>Fig 5: Increase in Military Operations Civilian Death Toll .....</b>	<b>52</b>

4.12 Conclusion .....	55
CHAPTER FIVE .....	56
Conclusion and Recommendations .....	56
5.0 Introduction .....	56
5.1 Conclusion .....	56
5.2 Recommendations .....	57
BIBLIOGRAPHY .....	i
Books.....	i
Journals .....	ii
Articles .....	ii
Reports.....	iv
Documents of International Law .....	iv
Dissertations .....	v
Magazines and News Papers .....	v
Websites .....	v
APPENDECES .....	vi
Annexure One .....	vi

# **CHAPTER ONE**

## **INTRODUCTION**

This chapter consists of the study context, background to the study, the statement of the problem of the study, its objectives; the study hypothesis, justification of the study, delimitation and limitations of the research, the research literature review, conceptual and theoretical framework. The structure of the dissertation is also provided therein. The structure of the dissertation outlines in brief, the contents of the chapters of this study. The theoretical framework consists of the major theories that upon which this study is premised.

### **1.1 Background to the Problem**

The Middle East (ME) consisting of countries such as Libya, Syria, Iraq, Israel, Yemen, Afghanistan among others which have been fronts of asymmetric armed conflicts for the greater part of its modern history particularly the past 30 plus years. Resultantly, this region has been a zone of unprecedented levels of humanitarian catastrophe characterized by violations of International Humanitarian Law (IHL) principles and human suffering in its epic proportions. According to Harroff-Tavel. (2013: 21):

“....due to the high level human suffering caused by war, the ME has been a major preoccupation for the International Committee of the Red Cross, which is an independent, neutral humanitarian organization which was formed 1963 with the sole objective of helping people affected by armed conflicts, encouraging the development of international humanitarian law and promoting respect for it by all armed conflict weapon bearers (state or non-state)”

According to the ICRC Summery Report on Afghanistan and Columbia (2009:9), the recent as well as past history of Afghanistan (a ME country and the case of this study), has been marked by frequent turmoil as a result of the burden of asymmetric armed conflicts as it has been at war for more than 35 years. The armed conflicts in Afghanistan can be divided into various phases that is; the 1979 invasion of the country by the Soviet Union and the decade of war that followed

until the Soviet departure in February 1989 marks the first phase which was cruel for the civilian population, characterized with shocking and extensive war crimes, human rights violations, vast and enduring population displacement. An average of over 240 Afghans was killed every day for ten straight years (ibid). The second phase consists of three years of armed conflict between the mujaheddin (resistance fighters) and the Soviet-supported communist government which collapsed in April 1992 from 1990. The third phase consists of seven years of civil war between the Northern Coalition, an alliance of Afghanistan's minority populations and the Taliban, a conservative Sunnite Pashtun group which seized power in Kabul in late September 1996 and controlled much of Afghanistan until late 2001 and whose reign was marked with violence that saw the massacre of 2000 members of the Hazaras ethnic group in gruesome circumstances. (Gresh (2014: 35).

The fourth phase the period to be the focus of this study is the currently ongoing armed conflict in Afghanistan starting in 2001 as the first arena of the "global war against terror (GWAT)" when the United States of America (US) military launched attacks code named "Operation Enduring Freedom-OEF" against Afghanistan after the Taliban government refused to hand over the Al-Qaeda leader, Osama bin Laden accused by the US of masterminding the bombing of their embassies in Africa in 1998 and the attacks on the US mainland on 11 September 2001.

The ICRC role in these armed conflicts as is the case in any other armed conflict situation around the world has been, to work together with the parties to armed conflicts to ensure proper implementation of IHL in these situations; to find practical ways to improve the life, health, and dignity of those affected; and to offer its humanitarian services when needed, ensuring protection against violations of IHL and above all, preventing violations from happening in the first place. The humanitarian activities of the ICRC in Afghanistan have been based on its humanitarian diplomacy (Maurer in the ICRC International Review: 2012:6).

According to Maley (2012:39), the unlike in other armed conflicts that occurred in Afghanistan, ensuring the mitigation in the GWAT has been a challenge given the complicated asymmetric nature of the conflict. The GWAT has waxed great debate in respect to interpretation and application of IHL, classification of the conflict, involvement of multinational forces, private military and security companies, transnational terrorist groups and other non-state armed groups and the status and treatment of those who are captured in relation to the armed conflict. This has

had negative consequences securing of humanitarian access and space by the ICRC (Maley .2012:39). However, The International Review of the ICRC (2013:43) provides that, the ICRC through its humanitarian diplomacy amidst these challenging factors, has managed to make strides in mitigating human suffering in Afghanistan that civilian casualties' figures which are a key marker of human suffering in armed conflicts have been falling. For example, due to the ICRC humanitarian engagements, in 2012, the total number of casualties fell by 9% and the number of deaths fell by 12%.

## **1.2 Statement of the Problem**

Mitigation of human suffering in the armed conflict in Afghanistan from 2001 to 2014 has been a mammoth task for the ICRC and its humanitarian diplomacy and remains a cause of concern. According to Lindstrom (2012:12), from the onset, the qualification of the conflict to determine and correctly interpret IHL principles applicable to it so as to ensure protagonist compliance with applicable IHL principles has been a challenge. The conflict has been between parties of different legal status and considerably different military capacity in terms of qualitative and/or quantitative strength, organization, and commando structure. State parties such as USA, Afghanistan, International Forces under the United Nations (UN) and the North Atlantic Treaty Organisation (NATO) being the superior parties and non-state armed groups such as the Taliban and Al-Qaeda among many others, private security and military companies such as Black water and Aegis Services International theoretically weaker parties. It has been characterized by the use of more injurious methods and means of warfare which include; The conduct of hostilities in civilian environments especially urban areas such as the capital city Kabul, Kandahar, Mazar-i Sharif, and Kunduz among others hence the blurring of distinction between civilians and combatants; The increased cases of suicide bombings, deliberate attacks, killing and intimidation of civilians including aid and health workers and civilian objects, cyber-attacks and destructive weapons such as landmines, remote controlled and automated weapons systems such as drones and improvised explosives devices (IEDs) All the above have been of negative effect to the ICRC humanitarian diplomacy engagements for the mitigation of human suffering especially civilians.

The ICRC (2013:28) be- mourns that, as of 2010, 90% of deaths recorded in Afghanistan were civilians and only 10% were military personnel and in 655 violent incidents in Afghanistan since 2001, 1834 humanitarian workers were either killed or injured. Over half of the civilians that were interviewed by the ICRC on the impact of the Afghanistan armed conflict in 2014 provided that the conflict has been too much a catastrophe. 53% reported having lost their innocent family members, 70% lost or had their properties destroyed; One-third had sustained injuries, one-quarter had one way or the other participated in the fighting and one-fifth had at some point been detained. A total of 83% had been forced to leave their homes at one time or another, often fleeing the country to seek refuge in Pakistan or Iran. It is in this regard that the role of the ICRC humanitarian diplomacy in mitigating human suffering was herein examined.

### **1.3 Objectives of the study**

The main objective of this study is an examination of the role of the humanitarian diplomacy of the ICRC in mitigating human suffering in the armed conflict in Afghanistan from 2001 to 2014.

In that context following were the specific objectives of the study:

- ☐ To discuss the humanitarian diplomacy of the ICRC as a key concept in the mitigating human suffering in Afghanistan from 2001 to 2014 as in other armed conflict situations.
- ☐ To discuss asymmetric warfare as a concept and it's bearing on the mitigation of human suffering in light of the armed conflict in Afghanistan form 2001 to 2014.
- ☐ To suggest recommendations for the improvement of the effectiveness of the ICRC humanitarian diplomacy in mitigating human suffering in Afghanistan.

### **1.4 Hypothesis**

The role of the ICRC humanitarian diplomacy in mitigating human suffering in Afghanistan from 2001 to 2014 has to a greater extent been effective.

### **1.5 Justification of the Study**

According to Lindström (2012:5), for the past four plus decades, the continued changing nature armed conflict to becoming more asymmetric has seen excessive human suffering especially the

civilian populations as has been the case in Afghanistan since 2001 (International Review of the Red Cross. 2013:53). This study was of significance because, suggested recommendations which can be considered for the most needed improvement of the effectiveness of the ICRC Humanitarian diplomacy in mitigating human suffering in Afghanistan. The study also contributes knowledge on the role of the ICRC humanitarian diplomacy in mitigating human suffering in armed conflicts in general.

## **1.6 Literature Review**

Continued non-compliance with IHL principles and the subsequent increasing human suffering in the armed conflict in Afghanistan and in other ME countries such as Iraq, Israel, and Syria has stimulated diverse and unprecedented academic debates on how parties to armed conflicts can be influenced to comply with IHL and ensure mitigation of human suffering. This study mainly draws observations from the writings of Lindström, F., Reginier, P., Geiß, R. and Siegrist Marion, H. T., Scott, B., Link later, A., Devetak, R., Donnelly, J., Paterson, M., Reus-Smit, C. and Jacqui, periodic reports by the ICRC, periodic publications of various scholars by the International Review of the Red Cross publications among other relevant scholars and sources of information on IHL, humanitarian diplomacy and armed conflicts.

According to Lindström (2012:15), a number of themes in relation to the interpretation and applicability of IHL and mitigation of human suffering appear to be dominating the discourse on the armed conflict in Afghanistan which is being fought by parties of different legal status, military capacity in terms of military hardware and the quantity and quality of military personnel; being fought in civilian environments particularly in urban areas, characterized by use of both conventional and non-conventional methods and weapons, and above all being the first of the new type of war called the “War Against Terror (WAT)”. The outstanding themes of remedy have been the adjustment of IHL provisions to meet the changing nature of armed conflicts and the effective engagement of Humanitarian diplomacy of the ICRC.

### **Adjusting IHL Provisions to Meet the Changing Nature of Armed Conflicts**

Lindström (2012:50) argue that the solution to ensuring mitigation of human suffering in Afghanistan is with adjusting IHL provisions to take into consideration the changing nature of

armed conflicts whilst others suggest the need for more new laws. The International Review of the Red Cross (2011:44) provides that the United States in light of the Bush Doctrine which is the basis of the USA WAT in Afghanistan following the September 11 terrorist attacks, advocates the removal of foreign leaders and organizations linked in any way to terrorism through use of preemptive attacks as a solution. This explains the removal of the Taliban government in Afghanistan and the killing of Osama Bin Laden the leader of Al-Qaeda. However, the Bush doctrine allows use of methods of warfare such as unilateral preventative attacks usually launched without proper caution hence makes mitigation of human suffering a challenge. On many counts the US has launched unilateral attacks which have resulted to the death of civilians (The International Review of the Red Cross 2011).

### **Engagement of Humanitarian Diplomacy**

According to Scott et al (2005:23) the ICRC in the International Review of the Red Cross (2003), took an optimistic view on Afghanistan, contending that, the creation of IHL from the beginning was a result of engagement of humanitarian diplomacy. Scott et al, reiterates that, in 1859 a Swiss businessman, Henry Dunant after witnessing soldiers dying at the battle of Solferino engaged humanitarian diplomacy with European governments that in 1864, the Geneva Convention for the Amelioration of the Condition of the Wounded Armies in the Battlefield was adopted and became the basis of all other IHL treaties that followed. In this regard, continued effective engagement of humanitarian diplomacy is what is required to ensure protagonists compliance with IHL and amelioration of human suffering in the armed conflict in Afghanistan (ibid).

The ICRC in The International Review of the Red Cross (2007:24), further explains that, the continued protagonists non-compliance with IHL principles in Afghanistan is no longer an issue of the inadequacy of existing IHL principles as other scholars argue, but a result lack of effective humanitarian diplomacy through which humanitarian agents engage both state and non-state actors and can take into account the unique characteristics of all parties so as to know and understand their motivations and interests, educate them about IHL and strategically explain why it is in their interest to comply with the IHL. Cooper and Shah (2011:32) elaborate that, in face of the asymmetric warfare as is the case with Afghanistan, the ICRC humanitarian



diplomacy is of plays an important role in ensuring that parties agree on key aspects of IHL and commit to comply.

Marion (2013:50) reiterates that, humanitarian diplomacy, allows the ICRC greater freedom to approach non-State actors, an issue that governments avoid for the fear of conferring legitimacy on them. The ICRC has engaged Humanitarian diplomacy in the Israel and Palestine War in the Gaza Strip, Yemen revolution in 2011, Bahrain Uprising 2011 to date, in Iraq both during the involvement of USA and in post US withdrawal phase with positive results especially in terms of securing access to victims of armed conflicts to provide them with healthcare, food relief among other forms of humanitarian assistance (ibid). In this light continued engagement of humanitarian diplomacy by the ICRC in Afghanistan is of paramount significance for the mitigation of human suffering. Reg'inier (2011:87) provided that, humanitarian diplomacy is peculiar and more desirable in the case of Afghanistan in that it has only one limited goal, that is to engage armed conflicts protagonists and other influential international actors to commit to the cause of preventing and alleviating the human suffering caused by armed conflicts. Furthermore, Reg'inier (2011:89), non- state parties to the Afghanistan armed conflicts, for example the Taliban forces have been denying humanitarian agent's access to conflict victims in the areas they control such as the Farah Province because they suspect them to be working in cahoots with Government and International forces. Only the ICRC was allowed access due to its humanitarian diplomacy tenets of neutrality, confidentiality and independence, which are a guarantee that the ICRC is not working for any party to the conflict but the motivation to protect the dignity of suffering human beings.

The United Nations (UN) in the International Review of the Red Cross (2013) described the Afghanistan conflict as one of the worst humanitarian and human rights catastrophe in the world yet the ICRC through humanitarian diplomacy has managed to conduct humanitarian activities. However in Re'gnier (2011:33), John B. Bellinger III a Senior Associate Counsel to the US President argued that whilst the ICRC Humanitarian diplomacy is of importance in ensuring the mitigation of human suffering in armed conflicts of asymmetric nature as with the Afghanistan armed conflict since 2001, the over emphasis of quiet diplomacy in ICRC engagement of humanitarian diplomacy with parties to the conflict render it less effective since there are issues that have to be publicly debated for the benefit of all.

In light of the above arguments from various scholars, this study examined the role of the humanitarian diplomacy of the ICRC in the pursuit to mitigate human suffering in the armed conflict in Afghanistan from 2001 to 2014.

## **1.7 Theoretical Framework**

The study was anchored on the Pluralist liberalist theory, Classical Realism theory both the classical and neorealist strands and the Just War Theory.

### **The Pluralist Liberalist theory**

According to Baylis and Smith (2005; 103), the Pluralist Liberalist theory is a generic concept premised on the notion that multiple actors play a role in shaping international relations. States may be central actors, but they are no longer the only significant actors in world politics. Explaining the Pluralist liberalist theory, Scott et al (2005; 35) provides that, States are not monolithic and states cannot be isolated from their societies, other actors (within and outside the state) have always played a role in shaping international relations. The pluralist liberalist theory was used in this study to analyse the challenges posed by the armed conflict in Afghanistan to the interpretation and applicability of IHL and the mitigation of human suffering given the fact that the hostilities have been between both state actors such as USA, Afghanistan forces, International forces consisting of forces from 43 European countries and non-state actors such as the Taliban and Al-Qaeda forces, private security and military companies and other non-state armed groups who are of different legal status, capacities and whose involvement in the conflict is motivated by different interests and governed by different values. It was also used to aid the analysis of the the role of the ICRC humanitarian diplomacy as a concept modeled in a way that allows taking into account concerns and issues of all arms bearers (state or non-state) in ensuring mitigation of human suffering in Afghanistan.

### **Classical Realism Theory**

According to Waltz (197), a Realist theorist, States at a minimum want to ensure their own survival as a key prerequisite to pursue other goals and this driving force of survival is the

primary factor influencing their behavior and the development of offensive military capabilities. This Neorealist perspectives was used to explain the behavior of both state and non-state parties to the armed conflict in Afghanistan in terms of the means and methods that have been used as parties strive to ensure their survival, achievement of their objectives and how this has affected the applicability of IHL and mitigation of human suffering vis-à-vis the engagement of humanitarian diplomacy by the ICRC.

According to Classical realist, Morgenthau (1978:12);

“Interest is the governing principle; and that almost every man is more or less, under its influence. Motives of public virtue may for a time, or in particular instances, actuate men to the observance of a conduct purely disinterested; but they are not of themselves sufficient to produce persevering conformity to the refined dictates and obligations of social duty. Few men are capable of making a continual sacrifice of all views of private interest, or advantage, to the common good”

The classical realist perspective imply that, “self-interest” defined in terms of survival, security, power, and relative capabilities is a major determinant of the behavior of states or non-state actors of international relations (Scott et al. 2005:125). This premise was used to examine how the different interests and military capacities of the state and non-state parties to the conflict in Afghanistan are influencing the means and methods of warfare and how these affect mitigation of human suffering vis-à-vis the engagement of humanitarian diplomacy by the ICRC. For example use of civilian populations and civilian objects as shields, targeting civilians and humanitarian workers, suicide bombing and use of automated weapons, drones by state parties. Classical Realism is also premised on the notion that politics, like society in general, is governed by objective laws that have their roots in human nature and in order to improve society it is first necessary to understand the laws by which society lives (Scott et al.2005:125). In this regard the realist theory was used to explain the importance of the humanitarian diplomacy of the ICRC in enabling the ICRC to explain IHL principles to multiple parties that have been involved in the asymmetric armed conflict in Afghanistan from 2001 to 2014 in consideration of their varying interests of participation in the conflict in search of a common ground for compliance with IHL and mitigation of human suffering.

## **The Just War Theory (JWT)**

The Just War theory is based on three key principles, Jus ad Bellum, Jus in Bello and Jus Post Bellum (Reichberg.2013:63). The Principle of Jus Ad Bello (Justice for war) is concerned with the issue of state parties being the only legitimate users of force that is armed force, having a just cause, right and moral intention to resort to war which is supposed to be resorted only as a last resort. The principle of Jus In Bello (Justice in war) is concerned with the conduct of war that is issues of distinction between civilian and combatants and prohibition of directing attacks on civilians and civilian properties, the issue of proportionality in terms of use of weapons and warfare tactics in relation to objectives for waging war and military necessity The Jus post bellum has to do with consideration of ensuring a better off post war situation of civilians. In this study the JWT was used to explain the changing nature of armed conflicts from being conventional involving state parties only to becoming more asymmetrical characterized with a multiplicity of non-state actors as has and is the armed conflict in Afghanistan since 2001 to date. It was also used to explain the importance of the ICRC Humanitarian diplomacy in Afghanistan in ensuring consideration and dialogue on new forms of warfare and to accommodate non-state actors through the continued development of IHL to meet the changing nature of armed conflicts for purposes of mitigating human suffering.

## **1.8 Conceptual Framework**

### **Armed Conflicts**

Armed conflicts are qualified as either International armed conflicts (IACs) or Non-international armed conflicts (NIACs). IACs are characterized by the involvement of at least two states whilst in NIACs at least one party is not a state and the armed conflict takes place within the territory of one state (Wippman & Evangelista (2005: 16). A 2008 ICRC Public opinion paper defined NIACs to be, protracted armed confrontations occurring between governmental armed forces and the forces of one or more armed groups, or between such groups arising on the territory of a State (party to the Geneva Conventions). It further elaborates that, the concerned armed confrontation must reach a minimum level of intensity and the parties involved in the conflict must show a minimum of organization.

## **International Humanitarian Law (IHL)**

International Humanitarian Law also known as the Law of war or the law of armed conflicts, according to (Kolb & Hyde. 2008:15), refers to:

“an area of public international law that regulates means and methods in both International Armed Conflicts (IACs) and Non-International Armed Conflicts (NIACs) , including protection of civilians and people no longer taking part in hostilities”

IHL comes in two branches: Geneva Law and Hague Law. The former regulates protection of people that are affected by armed conflict, whereas the latter regulates means and methods in warfare, such as the use of certain weapons and conduct of hostilities. The Geneva law consists of Four Geneva conventions (GC) of 1864 and their Additional Protocols (AD) one and two of 1977. Important to note is Common article 3 (CA3) to the GC which stipulate humane treatment and care of civilians as well as combatants no longer taking part in hostilities, and prohibit acts that are degrading, violent, and humiliating. Other rules which form a part of IHL include numerous conventions which include; the conventions on the prohibition on the use of poisonous gases, use of biological weapons, use of environmental modification techniques for military or hostile purposes, use of chemical weapons, use of anti-personnel mines among others.

### **The Term “Civilian”**

The terms “civilians” in this study was used as defined by Lindstrom (2012:42) who for the purposes of the principle of distinction in NIACs such as the armed conflict in Afghanistan. And in line with the ICRC DPH Guidance defines it as:

“...all persons who are not members of state armed forces or organized armed groups of a party to an armed conflict, entitled to protection against direct attack unless and for such time as they take a direct part in hostilities.”

Article 4 of Additional Protocol II of the Geneva Conventions provides that civilians in armed conflicts include, “.....all persons who do not take part or who have ceased to take part in hostilities.” This implies that the wounded, the sick and prisoners of war are civilians who have

in all circumstances have to be protected from suffering and treated humanely during armed conflicts.

### **Non-State Actor / Organized Armed Groups**

The term non-state actor was in this study, used to describe an organization, which in an armed conflict uses force that is not authorized by a state. Non-state actors that falls within this definition are thus terrorist organizations, revolutionary groups, guerillas, Private Military and Security Companies and other military units not part of a state's army. Private military and security companies are transnational corporations legally registered which obtain contracts from governments, private firms, intergovernmental and non-governmental organizations. In Afghanistan these have been contracted as civilians but armed as military personnel; operate in "grey zones" as unlawful combatants without oversight or accountability, under murky legal restraints and often with immunity. The other major transnational security companies based in the United States and operating in Afghanistan are: Black water, DynCorp, MPRI, Ronco, Triple Canopy and Vinell Corporation. The British based private military and security companies is Aegis Defense Services

### **Asymmetric Warfare**

The concept of 'asymmetric warfare' is a multifaceted notion with no common clear-cut definition. This study used it as defined by Chehtman, and Curie (2014:1) who explains as basically meaning that, ".....one party in the conflict adopting "different" and morally controversial means, strategies, and organizational structures to maximize an advantage, take the initiative, or exploit the opponent's weaknesses in armed conflict."

### **The Concept of Diplomacy**

The word 'diplomacy' derives from the Latin term "diplomatia" which refers to official documents that conferred privileges on the bearer, who would have been acting in his capacity as a diplomatic intermediary and representative. As a practice in general, according to Berridge (1995) cited in Jönsson and Aggestam (2009: 3), diplomacy entails, "...the activities of governments to achieve their objectives through negotiations and other peaceful means rather

than through force”. In this study it was used as one of the sets of instruments through which decisions are implemented, policy activated, and policy objectives are achieved in international relations (Re´gnier. 2011:13).. It was also used as an instrument of foreign policy conducted in respect of fundamental principles of international law like self-determination and political sovereignty (Harroff-Tavel 2012: 4). In respect of the armed conflict in Afghanistan, the concept of Diplomacy comes in form of the Humanitarian diplomacy of the ICRC, an instrument to influence policy positions, policy implementation and international relations in as far as warring parties in Afghanistan, state or non-state compliance with IHL for the mitigation of human suffering.

### **1.9 Methodology of the Study**

This study utilized qualitative research methods, descriptive and explanatory in design. It describes the nature of the armed conflict in Afghanistan and how this has a bearing on the application of IHL and the mitigation of human suffering. It explains the role of the ICRC Humanitarian Diplomacy in ensuring the mitigation of human suffering so as to determine its effectiveness in this respect. This research design was appropriate for this study because it allows in-depth understanding of the nature of the armed conflict in Afghanistan from 2001 to 2014 and the role of the ICRC humanitarian diplomacy in ensuring mitigation of human suffering.

### **1.10 The Research Study Area**

The armed conflict in Afghanistan from 2001 to 2015 was the research study area. It was selected on the basis that, from a legal point of view, the armed conflict in Afghanistan as of 2001 can be argued to be both an international conflict to some extent as well as an internal conflict and consists of almost all elements of an asymmetric armed conflict which have a bearing on issues of the applicability of IHL and parties compliance with IHL for the mitigation of human suffering (Samar.2013:30). The 2001 to 2014 time frame was selected on the basis that, It is the period when the armed conflict in Afghanistan intensified with the launching of the Operation Enduring Freedom (OEF) as part of the war against Terrorism (WAT) which saw in addition to the US forces and the Afghanistan forces, the participation of armies from 43

countries under ISAF and NATO on one side and the Taliban forces, Al-Qaeda, TEP and other carious anti-pro-government armed groups.

### **1.11 Sampling Techniques**

The sampling frame of the study consisted of the ICRC and all parties to the armed conflict in Afghanistan who included the USA, ISAF forces who include forces from 43 European countries under the command of NATO and the United Nations. The study sample was selected using Purposive sampling technique which entails selecting research respondents according to the needs of the study (Glaser& Strauss.1991:119). The selection criteria was based on the ability of the participant to give a richness of information that is suitable for detailed research and to articulate their opinions as it relates to the phenomena being investigated. Purposive sampling was used also because, according to Khothari (1990:56), it is easy to conduct, cheap, less time consuming and enables the researcher to acquire information from informed respondents.

The ICRC officials in Harare were selected on the basis that the study is based on the importance of their ICRC humanitarian diplomacy in mitigating human suffering in armed conflict in Afghanistan from 2001 to 2014. The Zimbabwean embassies of Afghanistan, USA, United Kingdom and France were also purposively selected as key informants given the fact that they have been active parties in the conflict since 2001, the USA and Afghanistan being the main parties, France and United Kingdom (UK) where selected to represent ISAF and North Atlantic Treaty Organisation (NATO) and on the basis that of the 43 countries which make up ISAF, they have the largest number of troops in Afghanistan. Second to USA with 90 00, UK has 9 500 whilst France has 3308 troops. The embassy of Pakistan was also selected on the basis that it shares borders with Afghanistan and experienced the effects of the war especially on its borders. The UN Information Centre in Harare was also selected given the participation of the United Nations Security Council (UNSC) in the conflict through the ISAF.



## **1.12 Data Collection**

The data was collected using documentary search and in-depth key informant interviews. The study heavily relied on documentary search/secondary data. It made primarily use of existing humanitarian diplomacy and IHL related studies particularly on the armed conflict in Afghanistan. This included journals, articles, books, reports by the ICRC, the UN Mission in Afghanistan and other reliable scholars. Documentary search (electronic and hard copy) was very crucial for the study as it enabled the researcher access to contemporary information and new developments on the armed conflict in Afghanistan and the protagonist compliance with IHL for the mitigation of human suffering. Further data emanated from international media houses such as France 24, BBC News, Cable News Network (CNN), among others.

In-depth Key informant were conducted with the ICRC delegation in Harare, the Zimbabwean embassies of USA, UK, France, Pakistan and Afghanistan given the fact that they all have parties to the armed conflict in Afghanistan since 2001. The ICRC delegation in Harare were interviewed on the basis that, the study is focusing on its humanitarian Diplomacy in Afghanistan. An interview guide was used to guide the conduct of in-depth interviews. An Interview Guide was used as the research instrument (See Appendices, Annexure one).

The primary advantage that in-depth interviews provided to the research is that the researcher was able to gather much more detailed information directly from the parties to the Afghanistan armed conflict as there was room for probing and use of aided-recall questions. Generally more questions were asked and responses were spontaneous. However there was a tendency that the interviewees being parties to the conflict might have given biased information just to make it seem that they have been making all efforts to ensure compliance with IHL for the mitigation of human suffering in their humanitarian diplomacy engagements with the ICRC even if they were responsible for some of the violations of IHL and civilian casualties. The in-depth interviews were time-intensive that the respondents would show signs of fatigue hence would end up not explaining issues in detail as the researcher expected. In-depth interviews with all the respondents were conducted in the period between, November 20, 2014 to December 05, 2014 during working hours.

### **1.13 Ethical Considerations**

Ethics in general entails the systematic application of moral rules, standards, or principles to concrete problems, though some authorities (Babbie.2010:110). In social science research ethics are norms and moral domains governing research based on the notion that research must not reduce people into interacting variables but rather must attempt to inquire and learn from them so as to help in producing knowledge with emancipator relevance that can promote autonomy of the individual and the solidarity of the community.

In this regard, in this study, the researcher sought permission from the University of Zimbabwe (UZ) department of Political and Administrative (POLAD) studies to undertake the study and it was granted. On documentary search all consulted texts were acknowledged to avoid plagiarism. In regards to interviews, informed consent would be first acquired from the interviewees with the aims and objectives of the study were fully explained. All the participants were informed and assured of their to accord right of informed consent, to anonymity if they insisted and of their right to discontinue taking part in the research if they feel so. Resultantly, the study did not bring any harm to participants involved whether physical, psychological and emotional.

### **1.14 Data Analysis and Presentation**

The collected data analysed using thematic, content and trend techniques of data analysis to form a coherent argument regarding the role of the ICRC humanitarian diplomacy in mitigating human suffering in Afghanistan from 2001 to 2014. Significant Statements and phrases pertaining the subject study were extracted from each interview transcript and meanings were formulated. The meanings were organized into themes in line with the research study objectives and conclusions on each of the research objectives were made. Trend analysis was used to track changes in terms of civilian casualties in Afghanistan. The findings were presented in form of a rich and exhaustive description of the organized themes, tables and charts.

### **1.15 Delimitations of the Study**

The study focus was centered on the role of the ICRC humanitarian diplomacy in mitigating human suffering in the armed conflict in Afghanistan from 2001 to 2014. The period preceding

2001 was used as background to the conflict. The study only covered the Jus in Bello factors of the armed conflict in Afghanistan not Jus ad bellum hence issues to do with the right to enter into an armed conflict were not discussed. International human rights law (IHRL) was not discussed other than on cases where it interplays with IHL.

### **1.16 Limitations of the Study**

Most of the limitations of the study were methodological issues to do with access to data and research respondents. Due to the sensitive nature of armed conflicts and the importance of confidentiality to the concept of the ICRC Humanitarian Diplomacy, most of the interviewees were not comfortable to openly discuss their experience in Afghanistan. However various sources of information in form of articles and reports on the Afghanistan armed conflict since 2001 to date were made available to the researcher. For example, the researcher was accorded access to various ICRC publications on the research subject. In this regard, challenges of access to information were solved by triangulation of primary and secondary data collection methods.

### **1.17 Structure of the Dissertation**

**Chapter One :** Is the introduction of the dissertation, It contains an introduction of the chapter, the research context, background to the study, problem statement, study objectives, study hypothesis, justification of the study, the study research methodology, literature review, conceptual and theoretical framework, delimitations, limitations and structure of the study.

**Chapter Two:** An historical overview of the ICRC as an international actor, conceptualization of and discussion on the ICRC Humanitarian diplomacy and its role in mitigating human suffering in armed conflicts with reference to examples from the international arena.

**Chapter Three:** Discussion on the asymmetric nature of the currently ongoing armed conflict in Afghanistan since 2001 in relation to the parties involved, means and methods of warfare and how this has a bearing on parties compliance with IHL principles (distinction, proportionality, and precautions, human treatment of prisoners of war (POW), the sick and the wounded) for the mitigation of human suffering. The role of the ICRC humanitarian diplomacy in mitigating the associated challenges is also discussed,

**Chapter four:** Presentation and analysis of findings from interviews and documentary search on the role of the ICRC humanitarian diplomacy in mitigating human suffering in Afghanistan from 2001 to 2014.

**Chapter 5:** Conclusion and recommendations.

## **CHAPTER TWO**

### **The ICRC and Humanitarian Diplomacy**

#### **2.0 Introduction**

This chapter is a historical overview of the International Committee of the Red Cross (ICRC) as an actor in international relations. The legal status of the ICRC as a subject of international law, its functions and operations in various countries are discussed. The main discussion focused on conceptualization of the ICRC humanitarian diplomacy, a concept which according to Re'gnier. (2011:1206) is less well-known but nevertheless an increasingly vital aspect in the mitigation of human suffering in armed conflicts. Discussion on the ICRC humanitarian diplomacy consist of defining the concept from various scholarly perspectives, highlighting it's key principles, approaches used, its uniqueness in terms of how it differs from traditional state diplomacy, it's general roles in the mitigation of human suffering in armed conflicts with reference to examples and the associated challenges.

#### **2.1 The ICRC as an International Actor**

The ICRC is an impartial, neutral and independent organization whose mission is to protect the lives and dignity of victims of armed conflict and to endeavour to alleviate and prevent suffering by promoting and strengthening IHL which is an essential tool in discharging this mission. The ICRC mandate is to ensure the understanding and dissemination of IHL by warring parties for faithful application. (Mack.2008:5)

#### **2.3 The Historical Context**

The ICRC was established in 1863 by five figures (Henry Dunant, Gustave Moynier, Guillaume-Henri Dufourand, Dr Louis Appia and Théodore Maunoir) and has managed to pass through 150 years of existence characterized with ups and downs, turning points, ruptures and stages of consolidation. In 2012 it celebrated its 150<sup>th</sup> anniversary of existence. Currently it is 152 years old. The creation of the ICRC in 1863 and the adoption of the first Geneva Convention, the following year, mark the birth of modern IHL and humanitarian activities in armed conflicts. For

the past 152 years, the ICRC have been committed to reaching out to victims of armed conflicts and other situations of violence in more than eighty countries around the world where it provides humanitarian aid and protection response.

In the first fifty years of its existence of the ICRC, its work was mainly of provision of relief aid to wound and the sick on the battlefield. The First World War (WW1) (1914-1918) and its aftermath changed the face of the ICRC and modernized it. It is the WW1 that gave the ICRC an international dimension and also forced it to extend its focus from only the wounded and sick combatants to include new categories of victims (political prisoners, civilians in occupied territories, hostages, missing people, children, and refugees) whom it now emphasizes more.

The Second World War (WW2) (1939-45) and the Cold war further transformed the ICRC, enabling it to zoom out its focus to putting more emphasis on prisoners of war given its experience with the captured people in the NAZI concentration camps (Sébastien Farré. :2012). The WW2 and the Cold war also saw the advent of such challenges as deliberate attacks on aid workers, accusations of taking sides and use of new deadly means and methods of warfare characterized with inventions of more weapon weapons of mass destruction (WMD) signified by the arms race of the 1950s as armed conflicts were continually becoming asymmetric, worse off with the advent of global terrorism in the 21<sup>st</sup> century. All these brought about new humanitarian challenges of armed conflicts and posed challenges to the work of the ICRC. This can be explained by the establishment of the Two Additional Protocols in 1977 and other IHL related conventions which according to Terry(2011:187) are results of the ICRC humanitarian diplomacy upon which the work of the ICRC has been anchored on since its birth and is the reason why it has managed to survive ever-changing realities of war.

According to the International Review of Red Cross (2012), in the 21<sup>st</sup> century, the ICRC continues with its humanitarian work in armed conflicts, which include; monitoring of the conditions of detention of prisoners of war, the distribution of relief supplies, the provision of medical care to the sick and wounded, the reunification of family members separated by war. Its operations in Iraq, Israel, Syria, Somalia, Sudan, Afghanistan (the case of this study) among others serves testimony of this.

## **2.4 The International and Legal Status of the ICRC**

The ICRC is a unique international Non-Governmental Organisation (NGO) with a functional international legal status with rights and obligations (Harroff-Tavel. 2012:3)

It is a Swiss private association governed by Articles 66 of the Swiss Civil Code. Acting on the basis of international humanitarian law, which regulates the conduct of hostilities and protects the wounded, sick, shipwrecked, prisoners of war and civilians for purposes of reducing human suffering in armed conflicts, the ICRC deploys its humanitarian personnel in armed conflicts that break out in every part of the world (Harroff-Tavel. 2012:3). The above mentioned roles of the ICRC were entrusted to it by 161 states which are parties to the four Geneva Conventions of 1941 on IHL, who recognize it as an “impartial humanitarian body” and a neutral intermediary and maintain close ties with it, via the Ministries of Foreign Affairs, Defense and Justice *inter alia*. This accord the ICRC the right to offer its services to the parties to a non-international armed conflict without being accused interfering in the internal affairs of the state in question (Harroff-Tavel. 2012:3).

States establish agreements with the ICRC, formalizing their cooperation with in respect to the implementation of humanitarian law in armed conflicts (Harroff-Tavel. 2012:4). Through these agreements States grant the ICRC’s delegates privileges and immunities required of them to effectively work for the mitigation of human suffering in armed conflicts (*ibid*). The ICRC is also accorded special status in intergovernmental organizations. For example, the United Nations General Assembly resolution 45/6 of 16 October 1990, which was sponsored by 138 of the 159 member states of the UN, granted the ICRC observer status at the United Nations and it also allows it broad access to the main UN forums, including the Security Council. In 1994 the ICRC and the Organization of the Islamic Conference (OIC) which consist of 50 Islamic states, signed a cooperation agreement which enable the ICRC to attend all OIC summits of heads of State and governments, Ministers of Foreign Affairs meetings and technical meetings of mutual interest. The key members of the OIC include among others; Iran, Afghanistan, Saudi Arabia, United Arab Emirates, Malaysia, Libya, Turkey, Iraq, Egypt, Syria, Yemen, Lebanon, Jordan, Somalia and Palestine. The ICRC’s direct humanitarian engagement in armed conflicts which accord

close proximity to those in need of assistance also accords it international legitimacy and recognition as far as representing the voices of the victims of armed conflicts

The ICRC is the one which influenced the development of IHL and helped to construe it. It now endeavors to ensure compliance by parties to armed conflicts. It influenced the adoption of the Geneva Conventions of 1949 and their Additional Protocols, more recent conventions such as the Ottawa Treaty of 1998, the 2008 Convention on Cluster Munitions, The Montreux Document among others. Of importance to note is the ICRC study on customary IHL published in 2006, accompanied by an online customary IHL database and currently ongoing project to update the Commentaries to the Geneva Conventions and the Additional Protocols.(The International Review of the Red Cross. 2012:1193).

Summatively, according to Bugnion (2014:10 ), the ICRC was established as a private body, but derives its mandate from international law; its work is international, although its members are private individuals, all of them Swiss; its activities are based on international treaties to which it is not itself a party to.

## **2.5 The Humanitarian Diplomacy of the ICRC**

Diplomacy in general is an art of negotiation hinged on the craft of persuasion and the reconciliation of conflicting interests (Bull. 1977:173). It is a continuous process which always embraces the new international environment and adapts with changing systems. For example, Smith (2007: 43) reiterates that, at its inception, diplomacy used to be exclusively state-centric (track-one diplomacy) but with time and changing systems which according to Tariqul-Islam (2005:41) results from the growing emergence of non-state actors, a deregulating international environment, internal (rather than international) forms of conflicts, and the impacts of information, communication and technology (ICT), it has evolved to becoming pluralistic. New forms of diplomacy which include which extended beyond States to include the involvement of non-State entities such as intermediaries, the civil society (NGOs included), Inter-Governmental organizations and influential individuals have been emerging. This pluralistic form of diplomacy has come to be known as “polylateralism” or “track-two diplomacy” which means, the conduct of relations between State and non-State entities in which there is a reasonable expectation of systematic relationships involving some form of reporting, communication, negotiation, and



representation, but not involving mutual recognition as sovereign, equivalent entities (Wiseman. 1999: 41). Humanitarian diplomacy of the ICRC is a form of diplomacy born from the above alluded evolution of diplomacy from being state-centric to being pluralistic.

Generally, the humanitarian diplomacy of the ICRC is a strategy of influence employed by the ICRC to mitigate human suffering in armed conflicts through dialogue, negotiation with state and non-state parties to armed conflicts for development of, and compliance with IHL. It includes the engagement of conference diplomacy, quiet diplomacy, and preventive diplomacy, behind the scenes diplomacy among other diplomatic strategies. According to Harroff-Tavel (2012:8), "...it is a strategy for influencing the parties to armed conflicts and others - States, non-State actors and members of civil society. Its purpose is purely humanitarian and it is carried out through a network of sustained relationships - bilateral and multilateral, official and informal.

According to Jacob Maurer, the current ICRC president, the humanitarian diplomacy of the ICRC entails the mutually reinforcing cycle between the operations, the development of the IHL, and the diplomatic and political discussions between the parties to armed conflicts, influential decision makers and opinion leaders on humanitarian concerns in armed conflicts based on direct and confidential dialogue (International Review of the ICRC.2012).

## **2.6 Key Principles of the ICRC Humanitarian Diplomacy**

The humanitarian diplomacy of the ICRC is anchored on the principles of humanity, impartiality, independence, and neutrality. It is based on ensuring that parties to armed conflicts understand that it is independent of political pressure, does not take sides, and is only interested in protecting and assisting impartially to those suffering the consequences of armed conflict (especially innocent civilians). This is key for securing humanitarian access. (International Review of the ICRC.2012:39). Fiona Terry cited in International Review of the ICRC. (2012:40) writes that for the Humanitarian diplomacy of the ICRC:

“.....remaining neutral in an armed conflict is not a moral position, but simply the most effective basis found to date on which to negotiate access to people in need of humanitarian assistance, wherever they are”

For example, according to the ICRC 2014 Facts & figures report, because of engagement of Humanitarian diplomacy and strict adherence to the principles of impartiality, independence, and neutrality, in 2014 the ICRC managed to visit 38 000 detainees were in over 60 places of detention, distribute food rations and other essential items to 600 000 displaced people and to ensure access to clean water to 1.4 million civilians in Iraq.

## **2.7 The Unique Factors of the Humanitarian Diplomacy Compared to Traditional Diplomacy.**

The main difference between traditional diplomacy and the humanitarian diplomacy of the ICRC is that, traditional diplomacy is one of the many instruments of the states foreign policies through which states advance their self interests in the international arena and define the objectives they seek to achieve through diplomacy. The concerned objectives can be humanitarian or may have nothing to do with humanism, at times involving use of instruments such as military action or economic pressure (Harroff-Tavel. 2012:4). On the other hand, the humanitarian diplomacy of the ICRC policy of national state interests but mitigation of human suffering in armed conflict and other crisis situations.

The main factor that makes the humanitarian diplomacy of the ICRC unique compared to traditional diplomacy is that, whilst traditional diplomacy has several functions which among others include; representing the State and conducting negotiations in order to reach agreements and draw up rules for the international system all for the advancement of the state in question and its chief aim is to avert or regulate disputes in a politically fragmented international system so as to prevent conflicts and restore peace (Harroff-Tavel.2012:4). The humanitarian diplomacy of the ICRC is more limited in scope, specifically aimed at the development of IHL and ensuring its respect by parties to armed conflicts for the mitigation of human suffering.

In armed conflict situations, traditional diplomacy, for instance preventive diplomacy, entails deployment of diplomatic envoys usually from the UNSC, and other international and state actors to crisis areas to encourage dialogue, compromise and the peaceful resolution of tensions and discouraging the use of violence at critical moments. For example the UN diplomatic engagements in Sudan through statements and visits to the country which resulted to the successful holding of the January 2011 independence referendum for Southern Sudan, the UN

Office for West Africa (UNOWA) energetic diplomatic engagements in Guinea, from 2009-2010 which resulted to smooth political transition from a military coup to the country's first democratic elections since independence; The UN political mission (UNAMI) facilitation of peaceful dialogue over Kirkuk and other disputed internal territories in Iraq which resulted to successful elections in 2009 and 2010 (UN Department of Political Affairs Report. 2011) and the Southern Africa Development Community (SADC) mediation where the South African president Thabo Mbeki engaged "Quiet Diplomacy" to address the political crisis in Zimbabwe in 2008 which led to the formation of an inclusive government by the main opposition political parties.

In contrast, in the same armed conflict situation mentioned, the humanitarian diplomacy of the ICRC would include, the deployment of the ICRC delegates to work for the development of a network of close bilateral or multilateral, official or informal relations between the ICRC, parties to armed conflicts, and any other interested State, non-State actors and influential agents, for the aim of fostering a heightened awareness of the plight of victims of armed conflicts. It will also consist of negotiation and establishment of humanitarian agreements between state and non-state actors involved in armed conflicts, the ICRC acting as a neutral intermediary between them to ensure the preparation of IHL and its respect by parties involved in armed conflicts (Harroff-Tavel. 2012:4). For example, according to the International Review of the Red Cross (2012:51), the current Secretary-General of the UN, Ban Ki-moon highlighted that; the ICRC engagement of its humanitarian diplomacy in Somalia since 1991, Democratic Republic of Congo since 1994, in Columbia, Sudan now South and Northern Sudan, in Iraq, in Israel among other armed conflict zones has enabled it to network both state and non-state parties to the armed conflicts for effective humanitarian activities and mitigation of human suffering. Ban Ki-moon, applauded the complementary relationship the UN and the ICRC and other humanitarian agencies enjoy in these armed conflict zones which is a result of its effective networking (Fortin: 2012).

In addition, according to Re'gnier. (2010: 1216), unlike traditional diplomacy, the humanitarian diplomacy of the ICRC in armed conflicts will also involve making the parties to the conflict aware of their responsibilities, provision of direct aid to armed conflict victims, making up for deficiencies in defective prison, sanitation or other systems and by promoting and disseminating International humanitarian law in armed conflict situations. For example, according to John

Bellinger, Legal Adviser for the US Department of State from 2005 to 2009 under Secretary of State Condoleezza Rice, in an interview in the International review of the Red Cross (2012:1223), most of the successful meetings between the US and the ICRC delegates in relation to Iraq and Afghanistan had to do with discussions regarding the application of the Geneva Conventions to do with provision of humanitarian aid to victims of armed conflicts and other applicable law to the detention of members of Al Qaeda and the Taliban in various US controlled prisons and, the negotiation of the Third Additional Protocol to the Geneva Conventions and the Montreux Document on Private Military and Security Companies operating in Afghanistan and Iraq.

The other differentiating aspect of the humanitarian diplomacy of the ICRC is its independence which is a paramount condition for neutral intermediary role in negotiating for consideration of humanitarian concerns in armed conflicts without hitching its wagon to a political train or being used by a party so as to remain solely motivated by the goal of protecting the dignity of suffering human beings (Harroff-Tavel.2012:7). For example, through humanitarian diplomacy, the ICRC has been positively influencing parties to armed conflicts in Iraq and Afghanistan that seriously ill and dying prisoners of war be repatriated for exclusively humanitarian reasons whilst for their part (parties to the conflict) usually states, will be negotiating a prisoner exchange under United Nations auspices (Terry 2011:187).

Furthermore, the ICRC humanitarian diplomacy is unique because of its confidentiality nature irrespective of the fact that, the ICRC works in a network of both state and non-state actors. According to Terry (2011:187), Persuasion is the ICRC's humanitarian diplomacy preferred mode of action; it only resorts to denunciation in exceptional circumstances. Parties to armed conflicts are convinced to consider mitigating human suffering in private discussions or public communications rather than through the use of force. This is key for purposes of protecting the individuals and groups exposed to violations of International Humanitarian law. Whilst the ICRC Humanitarian diplomacy also involves use of mobilization which is half way persuasion and denunciation, it involves sharing humanitarian concerns, discreetly, with a carefully selected group of individuals, groups and states in a position to influence the parties to the conflict to respect humanitarian law. (Harroff-Tavel: 2012:7). John Bellinger, Legal Adviser for the US

Department of State from 2005 to 2009 under Secretary of State Condoleezza Rice, in an interview in the International review of the Red Cross (2012:1223), had the following to say:

“.....the ICRC , deserve great credit for their hard work in maintaining a diplomatic but candid working relationship with senior US officials across multiple departments in relation to War against Terrorism in Afghanistan, ICRC delegates enjoy great personal respect in Washington, even when their messages were not always welcome. They are more interested in solving problems than generating headlines”

According to Harroff-Tavel. (2012:9), the other that makes the ICRC Humanitarian diplomacy unique is the difference between State diplomats and an ICRC Humanitarian diplomacy delegates. Whilst they both work within a normative framework which consist of treaties, customs, “soft law” (United Nations resolutions) and domestic legislation for State diplomats and for delegates, International humanitarian law for ICRC Humanitarian diplomacy delegates. State diplomats represent the interests of the State whilst ICRC Humanitarian diplomacy delegates represent those of the victims of armed conflicts. State diplomats, acting within the confines of a foreign policy, defend a model of society that may be influenced by history, ideology, religion or the identity of those in power whilst ICRC Humanitarian diplomacy delegates do not promote any particular model of society but just a more humane one specifically in armed conflict situations. State diplomats enjoy the power of their countries and can use the carrot and the stick that is, hold out the promise of economic favors or threaten sanctions and military reprisals, the ICRC’s Humanitarian diplomacy delegates only have the power to convince, requests for third parties to exert political pressure and not so often turn to the media to ensure compliance with International law for the mitigation of human suffering by parties to armed conflicts.

In light of the above, in the short and long of it, whilst the ICRC humanitarian diplomacy is limited to humanitarian purposes of mitigating human suffering in armed conflicts, it consists chiefly in making the voices of the victims of armed conflicts and disturbances heard, in negotiating humanitarian agreements with international or national players, in acting as a neutral intermediary between them and in helping to prepare and ensure respect for humanitarian law. The diplomacy of states is aimed at advancing the interests of states in the International arena and these interests may be humanitarian or otherwise. Humanitarian diplomacy of the ICRC

unlike the diplomacy of states, Humanitarian diplomacy is not out to prevent armed conflicts but to mitigate their devastating effects on humanity.

It is in light of the above highlighted unique factors of humanitarian diplomacy compared to traditional diplomacy that its effective use in the armed conflict in Afghanistan is of significance in relation to the IHL goal of mitigating human suffering in armed conflicts.

## **2.8 Roles of Humanitarian Diplomacy in Mitigating Human Suffering in Armed Conflicts: A General Overview.**

First and foremost, humanitarian diplomacy is the reason behind the creation of the ICRC and IHL in its entirety is a creation of the humanitarian diplomacy of the ICRC five founding members initially with European states and now with all relevant stakeholders both state and non-state. One of the founding members of the ICRC, Henry Dunant who witnessed the Battle of Solferino in 1859 in Italy where more than 40 000 combatants were deadly injured and left behind without any medical assistance, resolved to engage humanitarian diplomacy to influence European states through a book, “Dunant’s Dream” to ensure the creation of IHL. This resulted to the creation of the Geneva Convention (GC) of 1864, on the Amelioration of the condition of the Wounded in Armies in the Field (GC I), which laid the foundation for IHL which now comprise of comprise of four GC, of 1949 and their two Additional protocols (AP) of 1977, among other more recent conventions such as the Ottawa Treaty of 1998 or the 2008 Convention on Cluster Munitions to mention a few. IHL provides clear legal obligations which enshrine basic humanitarian principles which are key for the mitigation of human suffering in armed conflicts. However, this is accurate and workable as long as, and inasmuch as it is respected and implemented by all parties in any particular conflict, the humanitarian diplomacy of the ICRC plays a key role in ensuring this (International Review of the ICRC. 2012).

The humanitarian diplomacy of the ICRC help in addressing the big and challenging question; whether there is need to further “popularize, adjust, and interpret” IHL during armed conflicts by creating a platform where the law can be explained in practical terms, answering the legitimate operation questions that weapon bearers have and to explain to them how they must behave at the same time taking stock of circumstances that might not have been foreseen when international humanitarian law was created. For example, the issue of conduct of hostilities in

urban areas, involvement of private security and military companies which have been a real problem in Afghanistan and successful efforts have been made to address them (International Review of the ICRC:2012).

The humanitarian diplomacy enables the ICRC to network more systematically with both state and non-state parties to armed conflicts, other influential and opinion leaders in a bid to influence them ensure the respect of and compliance with IHL for the mitigation of human suffering. According to, (Harroff-Tavel. 2013:13), the ICRC humanitarian diplomacy engagements with the Movement for Popular Liberation of Angola (MPLA) government forces, the Union for Total Independence of Angola (UNITA) and the parties to the armed conflict in Angola which included, UNITA and in Angola which included behind the scenes advocacy meetings with the leaders, IHL training seminars for the participating armed forces for effective appreciation of the importance of compliance among others played a critical role in influencing these parties to find practical ways to improve the life, health, and dignity of those affected; and to allow the ICRC to offer its humanitarian services when needed.

Humanitarian diplomacy enables the ICRC to be present in major forums and to seize every opportunity to share its concerns, feelings about the plight of victims of armed conflicts and to invoke a sense of urgency for action, through the use of emotional intelligence. (Harroff-Tavel .2012: 8). This has been evident in Columbia where according to the ICRC Annual Report (2009:310), the ICRC has been gone to the length of organizing behind the scenes seminars to train members of the FARC which is the main opposition armed groups in Columbia to ensure compliance with IHL.

The ICRC humanitarian diplomacy in respect of Article 3 of the Geneva Conventions which is applicable in non-international armed conflicts accords the ICRC greater freedom than States to approach non-State parties to armed conflicts and to establish contacts with them without conferring any specific legal status on them. This is not possible with the diplomacy of states since governments often fear opening up for discussion with non-state armed groups as doing so may tend to mean that they will be confer legitimacy on them. (Re'gnier. 2011: 1216). For example, the US has been reluctant to recognize armed groups participating in the armed conflict in Afghanistan as combatants and referring to them as “unlawful combatants”, a term which implies that these groups do not have any protection from IHL and not worthy for any legal

interface (Re'gnier. 2011: 1216). Against this bedrock it is because of humanitarian diplomacy that the ICRC has continued to engage non-state armed groups to comply with IHL for the mitigation of human suffering in Afghanistan.

## **2.9 The Challenges for Humanitarian Diplomacy in the 21st Century**

According to (Re'gnier. 2011: 12:29), armed conflicts in the 21<sup>st</sup> century tend to be becoming more and more asymmetrical, pitting government forces against non-state armed groups and involving an increasing number of international actors (as in Afghanistan and Iraq) and non-state armed groups in the wake of global terrorism. Non state armed groups such as Black water, DynCorp, MPRI, Ronco, Triple Canopy and Vinell Corporation, AL-Qaeda and, the British based private military and security companies is Aegis Defense Services which have been active in Afghanistan, often seek 'to overcome their military inferiority by employing strategies that flagrantly violate IHL and exacerbates human suffering whilst state parties now do not fully respect the fundamental principles of IHL due to the information, communication and technology (ICT) revolution, unregulated privatization of state security functions (civilianization and civilization of armed conflicts) and the use of force by states and international institutions (NATO) to protect civilians in armed conflicts under the auspices of the Responsibility to Protect (R2P) which has seen the growing tendency to see humanitarian work as a means to a political end.

These changes in the reality of today's armed conflicts have caused a challenge to the ICRC in the discharge of its endeavor to ensure the respect of International Humanitarian law for the mitigation of human suffering, humanitarian work on the ground has become even more complicated and dangerous, a case in point is post-2001 'global fight against terrorism in Afghanistan. (Williamson: 2010:1081).

For the ICRC, the only response to these challenges has been the engagement of humanitarian diplomacy to negotiate for humanitarian access and space and respect for International humanitarian law by all arms bearers in armed conflicts for the mitigation of human suffering through the provision of humanitarian aid to civilians and those no longer taking part in the fighting, spread knowledge of humanitarian law non state armed parties' helping them develop codes of conduct and disciplinary measures for violations of the humanitarian law and



encouraging them to declare their intention to respect certain norms or to sign special agreements with State players. Harroff-Tavel. (2012:14). It is in this regard that this study is evaluating the impact of the ICRC Humanitarian diplomacy in mitigating human suffering in armed conflicts as implemented in Afghanistan from 2001 to 2014.

## **2.10 Conclusion**

To establish a basis for examining the role of humanitarian diplomacy of the ICRC in mitigating human suffering in Afghanistan, this afore-going chapter provided a historical overview of the ICRC as an institution and as actor in international relations. Issues to do with the ICRC legal status as a subject of international law, its functions and operations in various countries were discussed. It conceptualized the humanitarian diplomacy of the ICRC, highlighting its key principles, approaches and uniqueness when compared to state diplomacy. It also discussed in general, the roles of the humanitarian diplomacy of the ICRC in the mitigation of human suffering in armed conflicts and the with associated challenges. The following chapter will focus on the asymmetric nature of the armed conflict in Afghanistan and its bearing on mitigation of human suffering vis-à-vis the humanitarian diplomacy of the ICRC.

## **CHAPTER THREE**

### **Effects of the Asymmetric Armed Conflict in Afghanistan on Mitigation of Human Suffering.**

#### **3.0 Introduction**

This chapter discusses the different stages of the ongoing armed conflict in Afghanistan since 2001 are discussed and classified. Most importantly, the asymmetric nature of this conflict and its bearing on issues of compliance with IHL and the mitigation of human suffering will be discussed vis-à-vis the humanitarian diplomacy of the ICRC. The analysis focuses on how the asymmetric armed conflict in Afghanistan has affected IHL concepts of distinction, proportionality, and precautions, human treatment of prisoners of war (POW), the sick and the wounded.

#### **3.1 A Historic Overview of Asymmetric Armed Conflicts**

Asymmetric warfare is in itself nothing new, parties to armed conflicts have all times sought to defeat their opponents by striking against the opponent's weakest points. Describing this fact, 2000 plus years ago, Sun Tzu provided that:

“.....the nature of water is that it avoids heights and hastens to the lowlands. When a dam is broken, the water cascades with irresistible force. Now the shape of an army resembles water. Take advantage of the enemy's unpreparedness; attack him when he does not expect it; avoid his strength and strike his emptiness, and like water, none can oppose you” (Lindrom. 2012:30).

What has changed is that, the famous quote by Rousseau, that “.....war is not a relationship between man and man, but between State and State” is no longer as accurate as it once was. Today war is perhaps more of a relationship between State and man. Up until the beginning of the twentieth century, though wars could be asymmetric, they included, “cabinet wars” fought among kings for the attainment of political goals and to secure or increase territorial borders (Lindström. 2012:20). Civilians were not directly involved or directly targeted; they would carry

on with their lives as normal, suffering only from shortages or other indirect devastations of war. In the 21 century, asymmetric warfare saw increased civilian contribution to the war effort as well as increased human suffering. This remains an issue of concern for the ICRC whose mandate is to ensure the mitigation of human suffering in armed conflicts by ensuring parties comply with IHL (William. 2010:143)

According to Lindström (2012:21), the continued transformation of armed conflicts from becoming more asymmetric can be attributed to the shift towards nationalism by the people (civilians) who now increasingly are willing to serve parties to armed conflicts whom they feel represent their interests (cultural, religious, political, economic) by active and direct contribution to war efforts which started to manifest in the 1960s onwards during the liberation struggles by African and Latin American and Asian countries. For example, the armed conflict in Afghanistan started as an international armed conflict involving states that is the Afghanistan Taliban government and the USA. In 2002 the war changed to become an internationalized non-international armed conflict now involving a multiplicity of parties both state and non-state including civilians and use of all sorts of means and methods of warfare especially those prohibited under IHL (Gade and Kalah.2010:219). Since 2002, increased civilian participation in hostilities which has been a defining attribute of the conflict in Afghanistan and has resulted to difficulties in determining the status of the people involved in the conflict that is whether they are civilian or can be accorded the prisoner of war (POW) status when captured (Lindström. 2012:21).

Increased involvement of civilians the conduct of hostilities in armed conflicts as a marker of the continued changing nature of warfare becoming more asymmetric, can be further explained by the privatization of military and security operations in armed conflicts and invention of new military technologies by civilian institutions. According to Ibezim (2010:86), most of the military technology (drones) used by the US and the international forces in Afghanistan were invented and are operated by contracted private military and security companies which include; Executive Outcomes, Sand-line International, Black Water and Aegis Services International characteristic of an asymmetric armed conflict.

### **3.2 Three types of asymmetric warfare: terrorism, guerilla warfare, and insurgency in the 21<sup>st</sup> century.**

#### **3.3 Terrorism**

Different organizations and countries understand terrorism differently. One country's terrorist can be another person's freedom fighter. It is a political label used to justify measures being taken against an organization, state, government or group of persons presumed to have acted undesirably and unlawfully in the eyes of the.

As an asymmetric warfare method used by non-state armed groups in Afghanistan and as explained by the UN Security Council resolution 1566, terrorism involves; criminal acts, against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act. The US, which started the War against terror in Afghanistan in 2001 provided that, terrorism as engaged in Afghanistan include; premeditated, politically motivated violence perpetrated against non-combatant targets by sub-national groups or clandestine agents, usually intended to influence an audience. According to Lindstrom (2012:35) terrorist acts by armed groups in Afghanistan have been mainly aimed at defeating the military superiority of state parties.

#### **3.4 Guerrilla Warfare**

According to Thornton. (2007:1), Guerilla warfare is based on the adage that:

“.....If weaker numerically, be able to withdraw, if the enemy is strong and I am weak, I temporarily withdraw and do not engage”

Guerilla warfare has been used by armed groups in Afghanistan to impose costs (deaths, material or psychological) on an adversary, usually state armed forces, for instance , the destruction of an adversary's camp or the prolonging of a conflict by attacking and then withdrawing, thereby protracting the armed conflict (Lindstrom. 2012:39). The rationale behind guerilla warfare is that the adversary would give up given the protracted nature of the armed conflict. It is also a way for

the guerilla organization to get the time to gain in strength and to recruit more fighters (Lindstrom. 2012:39). The success of Guerilla warfare is dependent on the support of the civilian local population who provides intelligence and shelter to the guerilla fighters. This reliance on the civilian population means that civilians often will be drawn into the conflict in one way or another, which in turn have serious implications for those involved. If a civilian takes direct part in hostilities, he loses his immunities under IHL and could therefore be subject to attack (Lindstrom. 2012:39). The situation in Afghanistan is a case in point.

According to Thornton. (2007:25), there are more similarities than differences between guerilla warfare and terrorism. The same tactics are often employed. Neither terrorists nor guerillas are likely to distinguish themselves from the civilian population by the wearing of uniform or other insignias. The guerilla organization, however, is more of a military unit than the terrorist organization. A guerilla is a larger group of armed people whose aim is to maintain or gain control over a certain territory and its population, whereas terrorists operate on a more irregular basis and not in armed units. Guerilla warfare has been one of the key methods used by the Taliban insurgents in Afghanistan since 2001. This explains why the war has not come to an end from 2001 to 2014 and is still ongoing. The Taliban insurgents sometimes withdraw to the mountainous regions of Afghanistan and sometimes to the neighboring Pakistan where they recruit and train more members. This can also be explained by the fact that the Taliban insurgents has been determined to gain control of as much provinces as possible so as to gain the support of the local on whom their success as guerillas is hinged. This also explains why the USA and the ISAF forces have been using military humanitarian aid to win the locals against the Taliban insurgency.

### **3.5 Insurgency**

An insurgency generally entails armed attacks by rebellions against a constituted authority to achieve a political goal (Lindstrom. (2012:39). an armed rebellion becomes an insurgency if it has survived the initial suppression from the authorities (Thornton.2007:18). In this regard, actions of the Taliban forces in Afghanistan which have survived the suppression of the coalition forces of Afghanistan Karzari's government, the USA and ISAF from 2002 to 2014 and is still surviving has become an insurgency.

### **3.5 Afghanistan: An Asymmetric Armed Conflict.**

The armed conflict in Afghanistan from 2001 to 2015 even way before this period dating back to the 1970s has been asymmetric in nature. Following are some of the main markers of the asymmetry of an armed conflict that has been a characteristic of an Afghanistan armed conflict.

#### **Huge Disparity of Technological and Military Power Capacity between Warring Parties**

Given the fact that, asymmetric warfare, entails armed conflict between strong and weak forces, the armed conflict in Afghanistan has been characterized with a huge disparity of technological capacity and military power between the parties that is the USA, International forces and pro-government forces on one side and the Taliban, Al-Qaeda and many other armed opposition groups such as the Quetta Shura Taliban in Southern Afghanistan, Hezb-i Islami Gulbuddin (HiG) and Hezb-I Islami Khalis in the east, and the Haqqani Network on the other (Geib.2010:12). These non-state armed groups have been using simpler but nevertheless dangerous methods and means of warfare (guerrilla and terrorist tactics) characterised with gross violations of IHL (principles of distinction, proportionality, precaution, humanity etc.) to level out their inferiority. This has seen the aggravation of human suffering in Afghanistan.

#### **Proliferation and Fragmentation of Non-state Armed Groups Motivated by Personal, Political, Economic and Religious Impulses**

According to Chehtman, and Curie (2014:1) characteristically, asymmetric armed conflicts entail the proliferation and fragmentation of non-state armed groups motivated by a combination of personal, political, economic, and religious impulses, the religion motivator being the strongest of the four. In this regard, the involvement of a multiplicity of opposition armed groups in Afghanistan is a manifestation of the asymmetric nature of this conflict which has been a result of armed religious groups (Islamic Fundamentalists) fighting one another and against government for power and influence.

## **Highly Dynamic, Lack of Clear-cut Spatial and Temporal War Front Demarcations and Use of Unconventional Means and Methods of Warfare.**

Furthermore, the armed conflict in Afghanistan has been highly dynamic lacking clear-cut spatial and temporal demarcations. Taliban forces and other opposition armed groups move from one valley to another, mounting ambushes and placing mines. This has seen levels of violence fluctuating at some point and hostilities erupting at anytime and anywhere. It also explains the protracted duration of the conflict which has lasted more than ten years (Geib and Siegrist.2011:18). They evade the classical battlefield by shifting the hostilities from one location to another, assuming civilian guise, feigning protected status, mingling with the civilian population, and launching attacks from objects that enjoy special protection arguing that these injurious methods (hanging sentence) (Geib.2010:12). Another more controversial method used by non-state armed groups in Afghanistan is suicide bombing. Committed members of Terrorist or insurgent groups take their own life through bombs in a strategic location aiming to kill members of the oppositional force. This type of attack is highly indiscriminate since the suicide bomber cannot control who will get killed in the attack other than himself.

The increased use of drones (the MQ-1 Predator and the MQ-9 Reaper) by the US and ISAF and improvised explosive devices (IEDs) including vehicle-borne by both state and non-state forces in Afghanistan is another aspect which portrays the asymmetric nature of the conflict. These weapons are injurious to civilian populations and their legality has been a subject of debate in international peace and security discourse. According to Geib and Siegrist (2011:26), when using drones, the detection and identification of legitimate targets, as well as the maintenance of such identification is a challenge. Drones impede an accurate analysis of the target area, as well as reliable predictions of potential civilian damages. This explains why on many cases when the US launches them, they result in civilian casualties. IEDs almost never look the same and are difficult to detect even for trained military personnel hence the risk that civilians will accidentally come in contact with the explosive without knowing what it is or without even noting it in the first place (Lindstrom2012:37). Vehicles with substantial amount of explosive material have been detonated in urban environments causing devastating and indiscriminate damage to civilians and civilian objects. (Lindstrom2012:38).

## **The Effects of Asymmetric Warfare on Mitigation of Human Suffering**

The effects of the afore-discussed asymmetric warfare attributes in the armed conflict in Afghanistan include challenges in the identification of members of opposition armed groups due to their multiplicity and their methods of warfare which blurs the distinction between peaceful civilians and combatants, civilian objects and military objects (Lucas. 2010:283). Furthermore, the asymmetric nature of the armed conflict in Afghanistan has seen the shift of hostilities into the proximity of urban population centers such as Kabul, the capital of Afghanistan which has resulted to the deaths and injuries of scores of civilians and remains a cause of concern (Geib and Siegrist.2011:26). In response the ICRC has been employing its, humanitarian diplomacy reminding warring parties of the categories of those who may legitimately be attacked during hostilities and those who must be protected.(Geib and Siegrist.2011:26)

According to Geib and Siegrist (2011:20) submitted that, the asymmetric nature of the armed conflict in Afghanistan has also seen the materialization of the theoretical worst-case scenario of negative reciprocity in which one side of the parties to an armed conflict influences the other parties (if one belligerent constantly violates humanitarian law and such behavior yields a tangible military advantage, the other side may eventually also be inclined to disregard these rules in order to enlarge its room for man oeuvre and thereby supposedly improve the effectiveness of its counter-strategies) . Terror forces in Afghanistan which among others, include; the Taliban, Al-Qaeda to mention but a few have for their own tactical purpose been determinedly and indiscriminately attacking civilian objects such as churches, mosques, schools and hospitals, using them as shields for rocket and weapons emplacements and taking civilian hostages. The belief that it is obligatory and second to nature that military commanders and soldiers of the official state armies conduct themselves in accordance with IHL in Afghanistan has paled into oblivion as all parties including the US, Afghanistan government and international forces have been operating in mutual disregard of IHL(Coyle, and Meier. 2009:52)

In face of the above challenges that the currently ongoing asymmetric armed conflict in Afghanistan is posing to the mitigation human suffering. The humanitarian diplomacy of the ICRC has remained the greatest strengths of the ICRC to continue making strides towards mitigation of human suffering. It has not only been instrumental in negotiating operational access



and security arrangements in order to provide assistance to affected civilians in Afghanistan but also in seeking to influence behaviour: refining arguments, spreading important IHL values and standards to all weapon bearers, state and non-state hence both a preventive and educational instrument. The ICRC has been using humanitarian diplomacy understand armed groups and their thinking, what the problems are, and if we can adapt IHL arguments without adapting key values, standards, and interests.

### **3.6 Conclusion**

This chapter provided a historic overview of asymmetric armed conflicts. Most importantly, the asymmetric nature of the armed conflict in Afghanistan and the challenges it has posed to the mitigation of human suffering were discussed. The analysis focused on how the asymmetric armed conflict in Afghanistan has affected IHL concepts of distinction, proportionality, and precautions for the protection of innocent civilians, human treatment of prisoners of war (POW), the sick and the wounded in the armed conflicts.

## **CHAPTER FOUR**

### **Role and impact of the ICRC humanitarian diplomacy in mitigating human suffering in Afghanistan: Findings**

#### **4.0 Introduction**

This chapter consists of presentation and examination of research findings from documentary search and key informants in-depth interviews in response to the main objective of this study of question of the role of the humanitarian diplomacy in mitigating human suffering in the armed conflict in Afghanistan from 2001 to 2014 so as to establish whether it has been effective or not, highlighting the limiting factors as a basis for proffering recommendations for improvement. The role of the humanitarian diplomacy of the ICRC in the currently ongoing armed conflict in Afghanistan since 2001, as established by the research findings, as in any other countries experiencing armed conflicts, has mainly been of securing of Humanitarian Access and Space to Conduct Humanitarian Activities for the Mitigation of Human Suffering, provision of a platform for the dissemination of information on IHL and reminding warring parties of the obligation to comply with IHL; Reminding warring parties of the obligation to comply with IHL, ensuring strategic development and presentation of IHL to warring parties and the devising of compliance approaches that meet the unique characteristics of the conflict, and strategic development of IHL, strategic crafting of approaches to ensure warring parties compliance with IHL.

#### **4.1 Securing of Humanitarian Access and Space to Conduct Humanitarian Activities for the Mitigation of Human Suffering.**

The humanitarian diplomacy of the ICRC in the armed conflict in Afghanistan has been effective in the role of ensuring that the ICRC is accorded greater humanitarian access and space for the mitigation of human suffering (Semir-Samar. 2013:18). According to the Rengineer (2011), because of the key principles of neutrality, independence and confidentiality which define the Humanitarian Diplomacy of the ICRC, many a times when all other Humanitarian organizations were denied Humanitarian access and space in Afghanistan, the ICRC would be

granted the access. This explains why it has managed to maintain its presence in Afghanistan since 2001 even way back.

#### **4.2 Mitigation of Human Suffering of Persons Detained in Relation to the Armed Conflict in Afghanistan**

Samir-Samar (2013:23) provides that, as a result of humanitarian engagements with the Afghanistan Ministry of Justice, the US, UK and other state parties involved in the armed conflict in Afghanistan, regarding the living conditions and treatment of detainees captured in relation to the armed conflict. The ICRC was in 2002, accorded access to detainees in prisons run by Afghanistan authorities, nations of the NATO-led International Security Assistance Forces and by US forces to monitor the conditions in which they are held, the treatment they receive and ensuring that they stay in touch with their families and this has been of effective in as far as mitigation of human suffering by the ICRC. Following is a table showing the number of humanitarian activities that the ICRC managed to conduct in respect to mitigation of human suffering for persons detained in relation to the Afghanistan armed conflict in the period between April and June 2014 as provided by Samir-Samar (2013:23):

<b>Number of prison visits conducted between April and June 2014</b>	<b>29</b>
<b>Number of Detention Places Visited</b>	22
<b>Number of Follow ups made on persons detained in relation to the armed conflict</b>	212
<b>Number of Detainees Reached</b>	18, 178
<b>Number of Facilitated Phone Calls to Connect Detainees and their Families</b>	827
<b>Number of Released helped to Travel back Home</b>	630

<b>Number of Organised Visits by Relatives of Detainees to Prisons</b>	10
<b>Number Of Visits to Places of Detention to Check on the Health Of Detainees</b>	67

**Fig 2: Humanitarian Activities Conducted by the ICRC for the Mitigation of Human Suffering of Persons Detained in Relation to the Armed Conflict in Afghanistan in the Period Between April and June 2014.**

Drawing from the above table, Fig 2, one can note , the effectiveness of the role of the ICRC humanitarian diplomacy in mitigating human suffering in Afghanistan given the large number of humanitarian activities (29 visits in 22 places of detention, reaching 18,178 detainees, follow ups on 212 individuals arrested in relation to the conflict, helped ten released detainees to travel back home; Facilitation of 827 phone calls by families of detainees and organization of 630 visits by relatives of the detainees) which have to do with mitigation of human suffering of armed conflict detainees in various detention places that the ICRC managed to conduct in a short space of three months which can be representative of the 14 years the armed conflict has been going on since the ICRC was accorded access to detention places. Following are pictures of some of the ICRC visits to detention places where persons arrested in relation to the conflict are kept:



Source: Mack (2008:5)

**Figure 3: Detainees at Kandahar Prison and Guantanamo Bay Connecting with Their Families through Video Conferencing and Phone Communication during a Visit by the ICRC.**

The above pictures as provided by Mack (2008:5), were taken during one of the ICRC visits to Kandahar prison and Guantanamo respectively in 2008 where persons detained in relation to the armed in Afghanistan who had not communicated with their families for more than nine years were relieved of the related psychological suffering by being accorded access to mobile and video conferencing facilities to communicate with their families some who had thought they were long dead. In this regard one cannot not acknowledge the role of the humanitarian diplomacy of the ICRC in ensuring that the ICRC is accorded access to detention places and authority to conduct such humanitarian activities for the mitigation of human suffering.

**4.3 Provision of Healthcare to Armed Conflict Victims.**

The ICRC humanitarian diplomacy engagements with both State and non-State parties to the armed conflict have been effective in the role of enabling the ICRC to secure humanitarian space to provide health care to victims of the conflict. According to Samir-Samar (2013:23), the ICRC supports various hospitals in Afghanistan where it provides, beds, drugs, medical equipment, consumables; diagnostic and critical services such as surgery, obstetrics and pediatrics to mention but a few. It also assists with the maintenance and repair of equipment and conducts quarterly assessments of laboratory facilities and training of first-aid volunteers. The ICRC also runs seven prosthetic/orthotic centres around Afghanistan where it provides rehabilitation services for those people who have become disabled because of the war particularly due to land mines

The following table as provided by Samir-Samar (2013:24) shows the healthcare related humanitarian activities that the ICRC conducted in Afghanistan between April and June 2014 in a bid to mitigate human suffering. It also shows the number of persons who benefited from the activities:

<b>Number of armed conflict military operations victims admitted into Sheberghan and Mirwais Regional Hospitals Surgical, medical and obstetrics wards between April and June 2014.</b>	<b>10, 698</b>
<b>Number of Armed Conflict Military Operations Out-patients who received treatment from Sheberghan and Mirwais Regional Hospitals between April and June 2014.</b>	61,213
<b>Number Of Armed Conflict Victims on whom Surgical Operations were performed at Sheberghan and Mirwais Regional Hospitals between April and June 2014.</b>	3,340
<b>Number of First-aid Volunteers and Tax Drivers Trainees on Handling the Wounded Armed Conflict Victims at Sheberghan and Mirwais Regional Hospitals between April and June 2014.</b>	48
<b>Number of Members of Both State and non-State Arms Carriers who Received First-aid Training to Handle wounded victims of the Armed Conflict from the front lines between April and June 2014..</b>	640
<b>Number of patients who received assistance in seven Orthopaedic Centres run by the ICRC in Afghanistan between April and June 2014.</b>	29,092

<b>Number of internally displaced people who received emergency nutritious food items from the ICRC between April and June 2014</b>	36,000
---	--------

**Fig 3: Humanitarian Activities Related to Ensuring Provision of Effective Healthcare to Victims of Armed Conflicts for the Mitigation of Human Suffering Between April and June 2014.**

In light of the above table, given the various healthcare provision related humanitarian activities that the ICRC conducted in Afghanistan between April and June 2014 which are a result of the humanitarian access and space that the ICRC secured through humanitarian diplomacy engagements with both State and non-State parties to the armed conflict and the large number of armed conflict victims who benefited from it. One can therefore note the role of the humanitarian diplomacy in alleviating human suffering in Afghanistan.

#### **4.4 Provision of a Platform for the Dissemination of Information on IHL and Reminding Warring parties of the Obligation to Comply with IHL.**

The ICRC humanitarian diplomacy engagements with warring parties in Afghanistan have been effective in the role of enabling the ICRC to frequently remind warring parties of their obligation to comply with IHL for the mitigation of human suffering and to disseminate information about IHL to all relevant and non-State

#### **4.5 Dissemination of IHL Information**

The humanitarian diplomacy of the ICRC according to Rengineer (2011:19), have been playing an important role of enabling the ICRC to disseminate information on IHL which is an important aspect in the efforts to ensure of mitigation of human suffering in Afghanistan. All year round since 2002, the ICRC conducts seminars, awareness raising campaigns on IHL and distributes reading material to both state and non-state armed groups (Harroff-Tavel. 2013). According to Spoerri (2012:23), in 2013 only, the ICRC conducted IHL training seminars with 5,837 persons both civilians and arms bearers who have a bearing on the efforts to mitigate human suffering in Afghanistan. The reached persons included community elders, religious scholars, political

authorities, members of the Afghanistan national army and all police units, the National Directorate of Security, and various armed opposition groups.



Source: Mack (2008:8)

The above image shows members of a non-State armed group prudently discussing IHL principles as provided on brochures given to them by the ICRC officials. This serves to show, the effectiveness of the role of the humanitarian diplomacy of the ICRC in the dissemination information on IHL principles to warring parties especially non-State armed groups in ensuring the mitigation of human suffering in the armed conflict in Afghanistan in that, it enables members of non-State armed groups to have an understanding of IHL so as to develop a positive attitude towards it as a first step towards respecting it for the mitigation of human suffering (Spoerri. 2012:25).

#### **4.6 Reminding Warring parties of the Obligation to Comply with IHL.**

Mack (2008:11), provides that, as a result of its humanitarian diplomacy engagements with both State and non-State parties to the armed conflict in Afghanistan, the ICRC was accorded leeway to periodically conduct Action Review exercises to examine the conduct of military operations and in consultation with almost all the parties to the armed conflict in Afghanistan, seek IHL guided corrective measures. These periodic Action Reviews have seen parties to the conflict voluntarily making unilateral undertakings to comply with IHL for the mitigation of human



suffering. For example, in response to the ICRC recommendations after an Action Review exercise in 2013, the Taliban developed a code of conduct called the “Layha” in an effort to ensure that its forces conduct themselves in line with IHL. Additionally as a result of these Action Reviews whose results are documented, since 2009, ISAF has been operating on the premise that civilian casualties and damages are to be minimized as much as possible. In light of the above one can note the role of the humanitarian diplomacy of the ICRC in the mitigation of human suffering in the armed conflict in Afghanistan.

According to the International Review of the Red Cross (2012: 33), the ICRC humanitarian diplomacy in Afghanistan with all parties to the conflict, reminding them of their obligation to respect IHL and mitigate human suffering has resulted in more frequent consideration by warring parties and other influential decision makers and opinion leaders of the need to mitigate human suffering in this conflict. According to McGoldrick (2011:976), after humanitarian diplomacy engagements between the ICRC and the government of Afghanistan government, in 2007, the Afghanistan President Karzai called upon the US forces to limit coalition attacks strictly to clearly identified military targets and NATO forces to put an end to operations causing civilian casualties by paying particular attention to the IHL principles of distinction and proportionality. Resultantly, there was a reduction in the statistics of civilian deaths and casualties resulting from pro-government and government forces military operations between as of 2007. Following is a table showing the reduction of civilian casualty incidents statistics caused by the pro-government and government forces military operation in Afghanistan in 2014 between April and June only as provided by .(Samir-Samar. 2013):

<b>Percentage of Civilian casualties resulting from pro-government and government forces in Afghanistan in April 2009</b>	<b>Percentage of Civilian casualties resulting from pro-government and government forces in Afghanistan in June 2009</b>	<b>Percentage of Reduction of Civilian casualties resulting from pro-government and government forces between April and June in Afghanistan</b>
<b>40%</b>	<b>9%</b>	<b>31%</b>

**Fig 4: Reduction of US and NATO Military Operations Civilian Casualties Statistics in Afghanistan between April and June 2014.**

The above table shows that in just a period of three months, April to June 2009, the ICRC humanitarian diplomacy engagements with pro-government and government forces concerning mitigation of human suffering during military operations registered a sharp decrease of civilian casualties, which is a decrease from 40% to 9% which is a 31% reduction. This alone shows the role of the humanitarian diplomacy of the ICRC in mitigating human suffering in Afghanistan.

#### **4.7 Ensuring Strategic Development, Presentation of IHL to Parties and Devising of Compliance Approaches that Meet the Unique Characteristics of the Conflict**

#### **4.8 Strategic Development of IHL.**

According to the International Review of the Red Cross (2012: 115), the ICRC Humanitarian Diplomacy as a concept has been playing an important role or empowering the ICRC to not only rely on time-tested IHL principles and methods, but to ensure continued innovative and strategic development of new, pragmatic responses to the ever-changing realities of the armed conflict in Afghanistan as of 2001. The development of instruments such as the Montreux in 2008 and the adoption of the International Code of Conduct for Private Security Service Providers in 2010 to guide the participation of Private security and military companies the armed conflict in Afghanistan is a case in point.

Furthermore, the ICRC humanitarian diplomacy has been playing an important role of enabling the ICRC to make strides in assisting warring parties to clearly define and separate between “combating civilians” and “real civilians to be protected by IHL (Ryngaert.2008:23). As a result of humanitarian diplomacy engagements with State and non-State parties to the armed conflict in Afghanistan and other relevant actors, in 2009, the ICRC came up with an, Interpretative Guidance on the notion of direct participation in hostilities under IHL, to help belligerents in Afghanistan to be able to distinguish between civilians who are supposed to be protected from direct military attack or any form of suffering resulting from conduct of hostilities. Ryngaert.2008:23).

#### **4.9 Strategic Presentation of IHL to Warring Parties**

According to Mack. (2008:13), when an armed group or a military commander asks how to comply with the obligations on precautionary measures, proportionality, and targeting in the conduct of hostilities, a twenty-page legal opinion, while important, will not be the most helpful because making the warring parties aware of IHL and their specific obligations is not enough to ensure compliance. Rather, efforts to increase respect for IHL in armed conflicts should take into account, the unique characteristics of the conflict. In this regard, IHL should be presented and discussed “strategically and persuasively” in a manner that is relevant and adapted to the conflict context. The ICRC has been effective in the role of ensuring this. It has helped the ICRC to translate in lay terms the rules of IHL, balancing operational, political, and legal considerations of importance and to contextualise humanitarian responses cognisant of different social fabrics of the 35 provinces of Afghanistan by creating a platform where the law can be explained in practical terms and answering the legitimate operation questions that weapon bearers may have Mack. (2008:13).

#### **4.10 Strategic Crafting of IHL Compliance Approaches**

The ICRC humanitarian diplomacy engagements with all parties to the armed conflict in Afghanistan has been effective in the role of enabling the ICRC to come up with context compatible approaches to ensure mitigation of human suffering (Palmieri. 2012). Some of the approaches that the ICRC has devised as a result humanitarian diplomacy engagements with

warring parties in Afghanistan to ensure respect for IHL and mitigation of human suffering, according to Mack (2008:18) include among others, special agreements between parties, unilateral declarations by parties, inclusion of IHL in codes of conduct for non-State armed groups, strategic augmentation.

Special agreements between the parties to the armed conflict enable the concerned parties to make an explicit commitment to comply with IHL based on the mutual consent; Unilateral declarations also known as Declarations of intention enables warring parties to state their commitment to comply with IHL through public statements or to the ICRC; Inclusion of IHL in codes of conduct of non-State armed groups enables them to develop mechanism that enables their members to respect IHL and Strategic argumentation enables the ICRC to explain why it is in a party's interest to comply with IHL. For instance, highlighting advantages such as the military efficacy and discipline that results from respecting IHL, reciprocal benefits that parties gain by respecting IHL and the reputation that comes with it. The above described approaches are more successful than simply stating IHL principles and admonishing arms bearers to comply. (Mack.2008:32).

#### **4.11 Limiting Factors to the Role of the ICRC Humanitarian Diplomacy in Mitigating Human Suffering in Afghanistan from 2001-2015**

Most of the limiting factors to the role of the humanitarian diplomacy of the ICRC in the mitigation of human suffering in the armed conflict in Afghanistan that the researcher identified from documentary search are a confirmation of the Realist theory of International Relations which was one of the theoretical frameworks of this study. The Realist theory as eluded in the theoretical framework is based on the premise that, states are bound to act for their self-interests (power and survival) not for the common good.

The research findings established that, though the role of the humanitarian diplomacy of the ICRC has been key in the mitigation of human suffering in Afghanistan since 2001 where the interests of the concerned parties have been at stake, issues of mitigation of human suffering have been blatantly and explicitly sidelined. Both parties (state or non-state) at some points for self-interest purposes deny the applicability of specific principles of IHL, making it difficult to engage in any discussion for the respect of IHL and mitigation of human suffering. Wingard.

(2013:3) lamented that; irrespective of the ICRC efforts to ensure the wellbeing of the persons who were detained in relation to the conflict in Afghanistan, prison conditions at Guantanamo Bay remain extremely poor. Detainees are held illegally and in a prevailing climate of impunity and brutality. For example, some of the detainees at Guantanamo have been there for 11, 5 years without trial. Wingard resolved that, Guantanamo prison conditions bears testimony of the fact that the US is not out to advance the common interest of limiting human suffering in the Afghanistan armed conflict but it's interests in as far as the War against Terror is concerned.

The study found that, the principle of proportionality between military objectives and military means and methods to avoid ruthlessness and cruel deaths in armed conflicts has on many occasions been ignored for military interests by warring parties in the armed conflict in Afghanistan. The US and other state parties to the armed conflict in Afghanistan have been ignoring this principle when it comes to their use of Drones to save their interest of wiping the so called terrorists in Afghanistan. For example, in February, 2011, Julian Barnes of the Wall Street Journal, quoted an unnamed "senior U.S. official" as saying,

".....Who is the next Osama bin Laden?" We don't yet know, but wherever he is, our drones will be ready for him" (Engelhardt.2011:33).

In addition, addressing a joint session of Congress, in 2005, the US President Bush said:

".....Talk about "imminence" or "constraints" all you want, but as long as we are "at war," not just in Afghanistan or Iraq, but on a world scale with something known as "terror," there will never be any limits, other than self-imposed ones" (Fin. 2012:8).

On the other hand, according to Norah. (2010:120), non-state armed groups in Afghanistan, continue to employ, devastating means and methods of warfare such as; cyber-attacks against airport control, transportation systems, dams and attacks on churches, mosques, schools and hospitals and suicide bombings and use of landmines. Against this bedrock, the situation continues to worsen, dead bodies continue to pile and not a single town or street in the Kabul, Kandahar among other cities in Afghanistan is without an amputee and the death toll of civilian from 2007 to 2010 was constantly increasing. Following is a table showing an increase in the statistics of civilian death toll in Afghanistan from 2007 to 2010 of which from 2007-2009, 55%

of civilian deaths were attributed to the armed opposition groups, 39% to pro-government forces and 6% to crossfire incidents. In 2010, 72% was attributed to non-state actors only.

<b>YEAR</b>	<b>DEATH TOLL</b>	<b>INCREASE IN PERCENTAGE</b>
<b>2007 -2008</b>	1523 to 2118 civilians	40%
<b>2008-2009</b>	2118 to 2412 civilians	14%
<b>2009-2010</b>	2412 to 2918 civilians	21%

**Fig 5: Increase in Military Operations Civilian Death Toll**

The study also established that, warring parties in Afghanistan have been maximizing on the confusion that surrounds the interpretation and application of IHL in the asymmetric armed conflict in Afghanistan since 2001. Striving to interpret IHL principles to suit their self-interests. Consequently, the effectiveness of the role of the humanitarian diplomacy of the ICRC in mitigating human suffering in Afghanistan has been diluted. For instance, according to Fin.(2012:7), the US president top advisor on counter terror operations in Afghanistan, John O. Brennan, in his speech on Strengthening the US Security by Adhering to her Values and Laws at a conference at Harvard Law School in 2012, reiterated that, when US government officials reached for their dictionaries to define key IHL issues on the War against terror, for example, the word “torture”.

The US Justice Department lawyers in their infamous torture memos, pretzled, abused, and redefined the word that by the time they were through, whether acts of torture even occurred was left to the torturer, to what he had in mind when he was interrogating detainees. As a result, the word torture was essentially drummed out of the dictionary except when committed by heinous evil doers in places like Iran, Gadafi’s Lybia, Mubarak’s and Egypt. In light of the above, the US as a sample of the many state parties to the conflict in Afghanistan, who have been manipulating the interpretation of IHL principles to advance its self-interests in as far as the armed conflict in Afghanistan and the WAT in general.

State parties to the Afghanistan conflict have been manipulatively using humanitarian assistance as a tool for counter-insurgency strategies to advance their vested interests. According to Williamson. (2009:18), state parties adopted a ‘Comprehensive Approach’ in which both development efforts and humanitarian assistance to local populations are conducted in parallel with, or in continuation of, combat operations against insurgents. Consequently, the ICRC has been plagued with the challenge of demonstrating its continued independence from ISAF and NATO forces and this has rendered access to the populations in need more difficult, and seriously jeopardized the security of humanitarian workers (International Review of the Red Cross. 2011:974).

Additionally, the research also found that, irrespective of the efforts made by ICRC through humanitarian diplomacy to strengthen and develop IHL to be compatible with the changing nature of the armed conflict currently ongoing in Afghanistan since 2001. It seems there remains a discrepancy between the existing body of IHL and the environment (urban settings populated by civilians such as Kabul and Kandahar) where most of the conflict hostilities has been taking place, the effective application of IHL remains a question of debate (Lindstrom. 2012:66). This uncertainty hits hardest against civilians who have been in most need of protection. In that regard, Pfanner (2005:158) surmised that:

“Asymmetrical wars do not fit in with either Clausewitz’s concept of war between basically equal parties or the traditional concept of international humanitarian law. It is debatable whether the challenges of asymmetrical war can be met with the current law of war. If wars between States are on the way out, perhaps the norms of international law that were devised for them are becoming obsolete as well.”

The research also established that, the ICRC overemphasis of the importance of confidentiality, and behind the scenes dialogue and avoidance of public discussions on humanitarian violations by warring parties is a limiting factor to the role and impact of its humanitarian diplomacy has been a limiting factor to the role of the humanitarian diplomacy in the mitigation of human suffering in Afghanistan. Wingard (2013:3) bemoaned that, the ICRC is supposed to publicly report on the inhumane treatment of detainees at Guantanamo Bay, in the name of confidentiality, it has been dumb on the issue of hence failed to act. In concurrence, Bellinger III in the International Review of the Red Cross (2012:1226) provides that, instead of staying out of

public debates, it would be more valuable for the ICRC to have contributed more to the public dialogue (as opposed to private discussions with US officials) on the detention of members of Al Qaeda and the Taliban at Guantanamo.

In concurrence with the findings from documentary search, 66,6% of the interviewees constituting two thirds of the interview respondents, who were of the view that, the role of the humanitarian diplomacy of the ICRC in the mitigation of human suffering in Afghanistan from 2001 to 2015 has mainly been of securing of Humanitarian Access and Space to Conduct Humanitarian Activities for the Mitigation of Human Suffering, provision of a platform for the dissemination of information on IHL and reminding warring parties of the obligation to comply with IHL; Reminding warring parties of the obligation to comply with IHL, ensuring strategic development and presentation of IHL to warring parties and the devising of compliance approaches that meet the unique characteristics of the conflict, and strategic development of IHL, strategic crafting of approaches to ensure warring parties compliance with IHL.

Whilst acknowledging that, the armed conflict in Afghanistan since 2001 has been asymmetric in nature and this posed various challenges to the efforts of the ICRC in mitigating human suffering, they all surmised that the ICRC humanitarian diplomacy has been effective in these roles (mentioned above). However, 33, 3 of the interviewees who constitute one third of the responds and were of the view that, the role of the ICRC humanitarian diplomacy in mitigating human suffering in Afghanistan from 2001-2014 has not been satisfactory and has not lived up to expectations. They lamented that, since 2001 innocent people have been dying in Afghanistan and not much has been done to ease their plight. The respondents pointed out various limiting factors as reasons for the ineffective role of the humanitarian diplomacy in mitigating human suffering in Afghanistan since 2001 to date. Among these limitations are issues to do with; The blatant and explicit sidelining of IHL principles and the obligation of mitigating human suffering by both parties (state or non-state) for self-interest purposes, manipulation of the interpretation of IHL principles by state parties in an effort to advance self-interests, Continued use devastating means and methods of warfare such as; cyber-attacks against airport control, transportation systems, dams and attacks on churches, mosques, schools and hospitals and suicide bombings and use of landmines by non-state armed groups in Afghanistan.



The remaining challenge of the discrepancy between the existing body of IHL and the environment (urban settings populated by civilians such as Kabul and Kandahar) where most of the conflict hostilities in Afghanistan have been taking place, which negatively affects the effective application of IHL, and the ICRC overemphasis of the importance of confidentiality, and behind the scenes dialogue and avoidance of public discussions on humanitarian violations by warring parties even when it is supposed to publicly report continued IHL violations by specific parties which were also highlighted in the findings from documentary search.

#### **4.12 Conclusion**

This chapter consisted of presentation and examination of research findings in response to the question of, the role of the ICRC humanitarian diplomacy in Afghanistan from 2001 to 2014, that is whether it has been of positive or negative impact in-terms of achievements made and limiting factors, drawing from the findings from documentary search and key informants in-depth interviews. The following chapter will based on the presented and analyzed findings, proffer recommendations for the improvement of the role of the humanitarian diplomacy of the ICRC in the mitigation of human suffering not only in the currently ongoing armed conflict in Afghanistan, but in any other armed conflicts zone.

## **CHAPTER FIVE**

### **Conclusion and Recommendations**

#### **5.0 Introduction**

This chapter consists of the conclusion of the dissertation in respect of the main and specific objectives of the study. It also consists of recommendations which the researcher suggest can be of use in ensuring the effectiveness of the humanitarian diplomacy of the ICRC in the mitigation of human suffering in Afghanistan and other armed conflict zones.

#### **5.1 Conclusion**

This study surmises that, the role of the humanitarian diplomacy of the ICRC in the mitigation of human suffering in Afghanistan from 2001 to 2015 has mainly been of securing of Humanitarian Access and Space to Conduct Humanitarian Activities for the Mitigation of Human Suffering, provision of a platform for the dissemination of information on IHL and reminding warring parties of the obligation to comply with IHL; Reminding warring parties of the obligation to comply with IHL, ensuring strategic development and presentation of IHL to warring parties and the devising of compliance approaches that meet the unique characteristics of the conflict, and strategic development of IHL, strategic crafting of approaches to ensure warring parties compliance with IHL.

Whilst the ICRC humanitarian diplomacy in Afghanistan has been playing a key role in the mitigation of human suffering in Afghanistan, its effectiveness is paled by various limitations which mentioning but a few include, the blatant and explicit sidelining of IHL principles and the obligation of mitigating human suffering by both parties (state or non-state) for self-interest purposes, manipulation of the interpretation of IHL principles by state parties in an effort to advance self-interests, Continued use devastating means and methods of warfare such as; cyber-attacks against airport control, transportation systems, dams and attacks on churches, mosques, schools and hospitals and suicide bombings and use of landmines by non-state armed groups in Afghanistan. The remaining challenge of the discrepancy between the existing body of IHL and the environment (urban settings populated by civilians such as Kabul and Kandahar) where most

of the conflict hostilities in Afghanistan have been taking place, which negatively affects the effective application of IHL, and the ICRC overemphasis of the importance of confidentiality, and behind the scenes dialogue and avoidance of public discussions on humanitarian violations by warring parties even when it is supposed to publicly report continued IHL violations.

There is an intricate nexus between contemporary asymmetric armed conflicts such as the currently ongoing conflict in Afghanistan and warring party's non-compliance with IHL and excessive human suffering. The presumed ineffectiveness of the role and impact of the ICRC humanitarian diplomacy in mitigating human suffering is greatly attributed to the asymmetric nature of the conflict in terms of challenges in the qualification of the conflict whether as international or non-international, the means and methods of warfare employed by the warring parties both state and non-state particularly the terrorist activities of opposition armed groups.

Overall, as an approach to ensure mitigation and prevention of human suffering, the humanitarian diplomacy of the ICRC in the currently ongoing armed conflict in Afghanistan from 2001 to 2015, has been effective in that respect... Though it may not have been effective in all situations and continue to face the uncertainty, risks and evolving challenges which, in a sense, come with the asymmetric nature of the conflict. As an approach to ensure alleviation and prevention of human suffering not only in the currently ongoing armed conflict in armed conflict in Afghanistan but in other conflict areas, this researcher firmly believe that it remains necessary rather than optional.

## **5.2 Recommendations**

- IHL have been regularly revised in light of novel challenges in warfare and major revisions have occurred about every twenty-five to thirty years. By that standard, for continued relevance of IHL in regulating contemporary conflicts especially non-international armed conflicts which are usually asymmetrical, as is with the War Against Terrorism in Afghanistan. Relevant actors (state and non-state) need to acknowledge the limitations of existing law and take effective steps to address them rather than ignore or avoid them. To mention but just one is the pressing need to fill the gaps in the existing law regarding conditions of detention, procedures governing security internment, and transfers of detainees

that has been problematic in Afghanistan in as far as Guantanamo Bay, Kandahar and other detention places are concerned. IHL is now due for another such reassessment.

- Parties to armed conflict especially state parties who are parties to the Geneva Conventions, their Additional Protocols and other IHL conventions and instruments and should lead by example to non-state parties. Should desist from pursuing self-interest in disregard of IHL at the expense of innocent civilians who suffer the consequences.
- Given the fact finding that, the ‘Comprehensive Approach’ in which both development efforts and humanitarian assistance to local populations are conducted in parallel with, or in continuation of, combat operations against insurgents poses challenges to the ICRC in of demonstrating its continued independence from coalition forces in Afghanistan and renders access to the populations in need more difficult, and seriously jeopardized the security of humanitarian workers. State and international forces in Afghanistan and other conflict areas should refrain from conducting relief activities when there are civilian actors capable of delivering assistance.
- The ICRC should be cautious of overemphasising the importance of confidentiality, and behind the scenes dialogue, avoiding public discussions where it would be more valuable for it to engage public discussions.

## BIBLIOGRAPHY

### Books

- Antonio, D. 2011. "Humanitarian Action in Afghanistan: An Uphill Battle." New York: Humanitarian
- Baylis, J. and Smith, S. 2005. The Globalisation of World Politics, Oxford: Sage Publications.
- Kathari, C. R. 1990. Research Methodology: Methods and techniques. New Delhi: New Age International Limited publishers.
- Lind, R. 1989. The Changing Face of Warfare: Into the Fourth Generation. New York: Sage Publishers
- Mancini, G., Deborah, C and André, P. 2004. Humanitarian Negotiations: A Handbook for Securing Access, Assistance and Protection for Civilians in Armed Conflicts. Geneva: Center for Humanitarian Dialogue.
- Marshall, C and Rossman, G. B. 2006. Designing Qualitative Research (4ed.). Thousand Oaks: Sage Publications.
- McHugh, A., Manuel, G and Gerard, B. 2006. Humanitarian Negotiations with Armed Groups: A Manual for Practitioners. New York: United Nations
- Morgenthau, H. J. 1978. Politics among Nations: The Struggle for Power and Peace, Fifth Edition. New York: Revised.
- Osiel, M. 2009. The End of Reciprocity: Terror, Torture, and the Law of War. Cambridge University Press
- Punch, K. F. 2005. Introduction to Social Research: Quantitative and Qualitative Approaches. London: Sage Publications.
- Reichberg, M. 2013. Forcible Preventive Disarmament in Traditional Just War Theory. The Global Quest for Tranquillitas. Ordinis: Pacem in Terris.
- Rousseau, J. 1994. The Social Contract. Oxford: Oxford University Press. (Translated by Christopher Betts. Original French edition: Du Contrat Social, 1762)
- Scott, B., Link, A., Devetak, R., Donnelly, J., Paterson, M., Reus-Smit, C and Jacqui, T. 2005. Theories of International Relations. Third edition. United States: Palgrave Macmillan.

Thornton, C. 2007. Asymmetric Warfare: Threat and Response in the Twenty-First Century. London: Macmillan.

Tzu, S. 1971. The Art of War. Oxford: Oxford University Press.

Waltz, K. N. (2001). Man, the State, and War: A Theoretical Analysis. Columbia: Columbia University Press.

## **Journals**

Burke, A. 2004. 'Just War or Ethical Peace? Moral Discourses of Strategic Violence after 9/11.' Journal of International Affairs.

Cooper, T., Merz, S. and Shah, M. 2011. A More Violent World? Global Trends in Organised Violence, the Berghof Handbook II, Olden/Farmington Hills: Barbara Budrich Publishers.

Geiß, R. 2012 'the conduct of hostilities in asymmetric conflicts: reciprocity, distinction, proportionality, precautions. Journal of International Law of Peace and Armed Conflicts), Vol. 23, No. 3, 2010, pp. 122–132.

Lind, W. 2004. Understanding Fourth Generation Warfare. Military Review, 84/5, pp. 12-16,

Mancini-Griffolli, D. and Picot, A. 2004. Humanitarian Negotiation: A Handbook for Securing Access, Assistance and Protection for Civilians in Armed Conflicts, Geneva, Centre for Humanitarian Dialogue.

## **Articles**

Brittain, V. 2013. How the war on terror in England became a war on women and children. Le Monde Diplomatique.com.

Chehtman, A and Curie, M. 2014. A Theory of Asymmetric Warfare: Normative, legal and conceptual issues. Le Monde Diplomatique.com.

Creswell, J.W. and Miller, D. 2000. Determining validity in qualitative inquiry. Theory into Practice.

Geiß, R and Siegrist, M. 2011. Has the armed conflict in Afghanistan affected the rules on the conduct of hostilities? International Review of the Red Cross. Volume 93 Number 881.

Harroff-Tavel, Marion. 2005. The Humanitarian Diplomacy of the International Committee of the Red Cross. International Review of the Red Cross.

Harroff-Tavel, T. 2013. The Humanitarian Diplomacy of the International Committee of the Red Cross. The International Review of the Red Cross.

Katharine Fortin. 2012. Complementarily between the ICRC and the United Nations and international humanitarian law and international human rights law. International Review of the Red Cross.

Kellenberger, Jakob. 2004. “Speaking Out or Remaining Silent in Humanitarian Work”. International Review of the Red Cross. International Review of the Red Cross.

Maley, W. 2010. Afghanistan: an historical and geographical appraisal. The International Review of the Red Cross 2010.

Murray, S. 2006. Towards And Enhanced Understanding of Diplomacy as the Business of Peace. Department of International Relations. Bond University.

Norah Niland, N. (2010. Impunity and insurgency: a deadly combination in Afghanistan. The International Review of the Red Cross.

Pfanner, T. 2005. Asymmetrical Warfare from the Perspective of Humanitarian Law and Humanitarian action. International Review of the Red Cross, Vol. 87, No. 857.

Pfanner, Toni. 2007. Principled Humanitarian Action in the East Timor Crisis. New York: United Nations University.

Rengineer, P. 2011. The emerging concept of humanitarian diplomacy: Identification of a community of practice and prospects for international recognition. The International Review of the Red Cross.

Sassòli, M. 2006. Transnational Armed Groups and International Humanitarian Law. Harvard University Occasional Paper Series Number 6.

Sébastien Farré. 2012. The ICRC and the detainees in Nazi concentration camps (1942–1945). International Review of the Red Cross

Smith, Hazel. 2007. ‘Humanitarian Diplomacy: Theory and Practice’. New York: United Nations University.

Spoerri, P. 2012. The 31st International Conference of the Red Cross and Red Crescent, Geneva, 28 November – 1 December 2011. The International Review of the Red Cross. Volume 94.

Veuthey, M. 2012. “Humanitarian Diplomacy, saving it when it is most needed.” New York: United Nations University.

Williamson, J. A. 2009. Using humanitarian aid to ‘win hearts and minds’: a costly failure. International Review of the Red Cross.

## **Reports**

The International Committee of the Red Cross (ICRC) Review Report on Afghanistan 2013, [www.icrc.org](http://www.icrc.org), Accessed 28 September 2014.

The International Committee of the Red Cross (ICRC) Review Report on Afghanistan 2003, [www.icrc.org](http://www.icrc.org), Accessed 28 September 2014.

UNAMA, 2013 Report on Protection of Civilians in Armed Conflict, [www.unama.unmissions.org/Portals/UNAMA/human](http://www.unama.unmissions.org/Portals/UNAMA/human), accessed 04 September 2014.

## **Documents of International Law**

Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 1949.

Convention (II) for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 1949.

Convention (III) relative to the Treatment of Prisoners of War, 1949.

Convention (IV) relative to the Protection of Civilian Persons in Time of War, 1949.

Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 1997.

ICRC, Interpretative Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law, 2009 (hereinafter referred to as ICRC DPH Guidance).

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts, 1977.



United Nations, S/RES/ 45/6 of 1990.

### **Dissertations**

Ana María Chaurio Martínez. 2013. The Contribution of Humanitarian Diplomacy by International Relief Organizations to Obtain Access to Civilian Victims of Confinement in Samaniego, Colombia. Uppsala University.

Lindström, F. 2012. Asymmetric warfare and challenges for international humanitarian law: Civilian direct participation in hostilities and state response. Uppsala Universitet.

### **Magazines and News Papers**

The Observer, “bin Laden’s letter to America’ 2004. Available at, <http://www.guardian.co.uk/world/2002/nov/24/theobserver>. Accessed on 22 December 2014

### **Websites**

<http://www.icrc.org/eng/resources/documents/interview/neutral-intermediary-interview-070708.htm>

# **APPENDECES**

## **Annexure One**

### **KEY INFORMANT INTERVIEW GUIDE**

#### **Introduction**

I want to thank you for taking the time to meet with me today.

My name is Tongai Dana I am a student at the University of Zimbabwe pursuing studies for a Masters Degree in International Relations. I would like to talk to you about your views on the impact of Humanitarian Diplomacy in mitigating human suffering during armed conflicts as engaged by the International Committee of The Red Cross (ICRC) in Afghanistan from 2002 to 2014. I am going to use your responses for the purpose of writing my dissertation on the topic: “An Examination of the Role and Impact of the Humanitarian Diplomacy of the International Committee of The Red Cross (ICRC) in Mitigating Human Suffering in Afghanistan (2002-2014)”. I have selected you to be a key informant on the basis that, you are one of the parties or interested party to the war on Terror in Afghanistan.

The interview should take less than 30 minutes and I will be taping the session because I don’t want to miss any of your comments. Although I will be taking some notes during the session, I cannot possibly write fast enough to get it all down. Because we’re on tape, please be sure to speak up so that we don’t miss your comments.

All your responses will be kept confidential and will only be used for the academic purpose of writing my dissertation for the attainment of a Masters Degree in International Relations at the University of Zimbabwe. I will also ensure that any information I include in my dissertation does not identify you as the respondent. Remember, you don’t have to talk about anything you don’t want to and you may end the interview at any time.

Are there any questions about what I have just explained? Yes/No

#### **Informed Consent**

Are you willing to participate in this interview? Yes/No: \_\_\_\_\_

**Interviewee Name:** \_\_\_\_\_ **Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## **Questions**

1. What is your understanding about the work of the ICRC and its work in armed conflicts?
2. What is your understanding International Humanitarian Law or the Law of War.?
3. Are you knowledgeable about the currently ongoing armed conflict in Afghanistan since 2001 to date?
4. If yes, what is your opinion about the nature of the conflict, whether it has been asymmetric or symmetric in nature?
5. How has the nature of the armed conflict in Afghanistan influence parties compliance with IHL and efforts to mitigate human suffering?
6. What is your understanding about the humanitarian diplomacy of the ICRC?
7. What is your overall opinion regarding the role and impact of the humanitarian diplomacy of the ICRC in mitigating human suffering in Afghanistan from 2001 to 2014, in-terms of achievements made and limitations experienced?
8. What can you recommend the ICRC and the parties to the armed conflict in Afghanistan to do to ensure effective mitigation of human suffering and compliance with IHL?
9. Is there anything more you would like to add?

## **Closing**

I'll be analysing the information you and others gave me and submitting a draft dissertation to my Supervisor in a minimum of one month time. I will be happy to send you a copy to review at that time, if you are interested.

Thank you for your time.