

Enforcement of International Humanitarian Law

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Abstract

This article advances a comprehensive and critically informed analysis of the enforcement architecture of International Humanitarian Law (IHL), also known as the law of armed conflict (*jus in bello*). It draws a conceptual distinction between “implementation” in its broad regulatory sense and “enforcement” as a narrower, accountability-centered framework activated in response to violations. In this latter sense, enforcement encompasses both individual criminal responsibility for war crimes and the international responsibility of States, including obligations of cessation, reparation, Enforcement of International Humanitarian Law.

Keywords: Law of Armed Conflict; *Jus in Bello*; Enforcement; United Nations; Geneva Conventions.

Introduction:

International Humanitarian Law (IHL), or *jus in bello*, forms a fundamental component of the contemporary international legal order, regulating the conduct of hostilities and safeguarding individuals affected by armed conflict. Despite the extensive codification of its rules and the near-universal ratification of its core instruments, persistent violations demonstrate that the effectiveness of IHL depends largely on robust enforcement mechanisms. Unlike general

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implementation, enforcement refers specifically to the activation of legal and institutional processes aimed at ensuring accountability, whether through individual criminal responsibility, State responsibility, or reparations for victims¹.

This study offers a systematic and critical examination of the enforcement architecture of IHL. Conceptually, it clarifies the distinction between implementation and enforcement, situating the latter within an accountability-centered framework. Practically, it evaluates whether existing domestic, regional, and international mechanisms effectively deter violations, prosecute perpetrators, and provide remedies for affected populations. Normatively, the study highlights enforcement as a central pillar for preserving the rule of law, human dignity, and the legitimacy of humanitarian norms.

The research pursues four primary objectives: first, to conceptualize enforcement within the framework of IHL; second, to analyze enforcement mechanisms operating at domestic, regional, and international levels; third, to assess their effectiveness in addressing serious violations, including war crimes; and fourth, to examine structural factors affecting compliance and explore avenues for strengthening enforcement strategies.

The study addresses a central research question: to what extent does the current multi-level enforcement framework of IHL effectively ensure accountability and deter violations in contemporary armed conflicts? Related questions consider how enforcement mechanisms can adapt to emerging challenges such as non-international conflicts, asymmetric warfare, and technological transformations in military operations.

Methodologically, the research adopts a doctrinal and analytical legal approach based on the examination of primary and

¹ -Marco Sassòli., *International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare* (Edward Elgar, 2019).p 33 ,Archive ouverte UNIGE, University de Geneve, 2019
file:///C:/Users/user/Downloads/Sassoli_2nd_proofs_(002).pdf

secondary sources of international law, including the 1949 Geneva Conventions, the 1977 Additional Protocols, customary international law, and the jurisprudence of international and regional courts. A comparative and institutional analysis is employed to explore the interaction between domestic, regional, and international mechanisms and to evaluate their effectiveness in promoting accountability and reparations.

For analytical clarity, the study is structured around two principal axes: the first examines domestic and regional enforcement of IHL, focusing on State obligations, national legislation, judicial mechanisms, and the role of regional human rights courts and commissions. The second analyzes international enforcement mechanisms, including treaty-based procedures, the role of United Nations organs, the International Court of Justice, and international criminal tribunals. Together, these dimensions provide a comprehensive assessment of how enforcement operates across multiple legal levels to uphold the principles of International Humanitarian Law.

The first Topic: Domestic and Regional Enforcement of International Humanitarian Law

Domestic and regional mechanisms constitute a fundamental layer in the enforcement of International Humanitarian Law (IHL) and in safeguarding civilians during armed conflicts. At the domestic level, States bear the primary responsibility to respect and ensure respect for IHL under Common Article 1 of the 1949 Geneva Conventions¹. This responsibility includes adopting preventive, supervisory, and punitive measures, such as incorporating IHL into national legislation, training armed forces, establishing judicial frameworks, and prosecuting serious violations before national courts. Domestic jurisdictions play a central role in ensuring accountability,

¹ - Geneva convention relative to the protection of civilian persons in time of war of 12 august 1949
https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33_GC-IV-EN.pdf

complemented by principles such as universal jurisdiction and *aut dedere aut judicare*, which oblige States to prosecute or extradite perpetrators of grave breaches¹. At the regional level, human rights courts and mechanisms further reinforce IHL enforcement by addressing violations arising from armed conflicts and strengthening protections for affected populations².

The first requirement: State-Centered Enforcement at the Domestic Level

Domestic and regional mechanisms play a crucial role in enforcing International Humanitarian Law (IHL). States bear the primary responsibility to ensure compliance by incorporating IHL into national legislation, training armed forces, and prosecuting violations through national courts³. Principles such as universal jurisdiction and *aut dedere aut judicare* further strengthen accountability⁴. At the regional level, human rights courts complement domestic systems by addressing violations arising from armed conflicts and reinforcing the protection of civilians⁵.

¹ - Marco Sassòli, *op.cit* ; p45.

² - *Inter-American Court of Human Rights*

https://casebook.icrc.org/a_to_z/glossary/inter-american-court-human-rights-inter-american-commission-human-rights

³ - *International Court of Justice Reports of Judgments, advisory opinions and orders case concerning military and paramilitary activities in and against nicaragua (nicaragua v. united states of america) merits judgment of 27 june 1986*
<https://www.ilsa.org/Jessup/Jessup15/NicaraguavUnitedStates.pdf>

⁴ - Kalshoven, Frits, and Liesbeth Zegveld. *Constraints on the Waging of War: An Introduction to International Humanitarian Law. 4th ed., Cambridge University Press, 2011.*

<https://doi.org/10.1017/CBO9780511995231>

<https://www.cambridge.org/core/books/constraints-on-the-waging-of-war/8D99DA5E00841F92D18C7BF752FA1FEC>

⁵ - Leiden : M. Nijhoff . *International humanitarian law and the changing technology of war.* ed. by Dan Saxon. 2013.
https://unige.swisscovery.slsp.ch/discovery/fulldisplay?vid=41SLSP_UGE:VU1&tab=LibraryCatalog&docid=alma991012173868505502&lang=de&context=L&adapter=Local%20Search%20Engine&offset=0

First section: State Obligations under Common Article 1 of the Geneva Conventions

Common Article 1 of the 1949 Geneva Conventions obliges States not only to respect but also to ensure respect for International Humanitarian Law in all circumstances. This duty requires States to implement IHL domestically, prevent violations, and punish perpetrators. Confirmed by the International Court of Justice, the obligation applies to both international and non-international conflicts and reflects a responsibility toward the international community as a whole. Consequently, States must adopt legal, military, and judicial measures such as legislation, training, and prosecution or extradition of offenders to guarantee compliance with humanitarian norms.

The Second section: National Legislation, Courts, and Supervisory Mechanisms

Effective domestic enforcement of IHL relies on integrating its norms into national law, empowering courts to adjudicate violations, and establishing supervisory mechanisms¹. National and military courts prosecute grave breaches, while oversight bodies ensure compliance, training, and accountability. Together, legislation, judiciary, and supervision create a cohesive domestic framework that turns international obligations into practical protection for civilians and other protected persons.

The Third section ; Preventive, Punitive, and Criminal Accountability

States have a comprehensive obligation to ensure compliance with International Humanitarian Law through preventive, punitive, and criminal measures. Preventive actions include adopting national legislation², military regulations, and training programs to disseminate IHL and minimize harm to civilians. Punitive mechanisms deter violations by imposing administrative or disciplinary sanctions on those who breach the rules. In addition, criminal accountability requires States to prosecute serious violations such as war crimes or extradite offenders to competent international tribunals under the

¹ - *International Criminal Court, Rome Statute (1998), Preamble; Articles 1 and 17*
<https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>

principle of *aut dedere aut judicare*¹. These combined mechanisms form an integrated framework that reinforces the rule of law and strengthens civilian protection during armed conflicts.

The second requirement: Regional Human Rights Courts and Commissions

At the regional level, the enforcement of International Humanitarian Law (IHL) is significantly reinforced through human rights courts and commissions, which, although primarily mandated to safeguard human rights, have increasingly assumed a critical role in interpreting and applying IHL norms. These bodies function as quasi-judicial mechanisms capable of clarifying State obligations during both international and internal armed conflicts, thereby bridging the gap between human rights and humanitarian law².

The European Court of Human Rights (ECtHR) exemplifies this approach, adjudicating cases that implicate fundamental rights such as the right to life, the prohibition of torture, and the right to liberty and security. By interpreting these rights in the context of armed conflict, the ECtHR has gradually incorporated IHL principles into its jurisprudence, emphasizing proportionality, distinction, and the protection of civilians, while also defining the limits of permissible derogations under Article 15 of the European Convention on Human Rights³.

Similarly, the Inter-American Court and Commission on Human Rights have developed an extensive body of jurisprudence addressing serious violations arising from internal conflicts, including massacres, forced displacement, and extrajudicial executions. These bodies consistently assess alleged breaches of the American Declaration and Convention in light of IHL as *lex specialis*, highlighting the obligations of States to protect civilians and provide reparations for victims⁴.

¹ - *International Criminal Law* (3rd ed., Oxford University Press, 2013, p 3-42 http://www.columbia.edu/itc/ce/s6403/antonio_cassese.pdf

² - Marko Milanovic, *Extraterritorial Application of Human Rights Treaties* Oxford: Oxford University Press, 2011. xxiii + 276 pp462-464, *Edinburgh Law Review*, Volume 16, Issue 3 <https://doi.org/10.3366/elr.2012.0129>

³ - *Ibid.*

⁴ - Marco Sassòli, *op.cit* ; p45.

The African Court and Commission on Human and Peoples' Rights operate within a comparable framework, addressing violations such as sexual violence, mass killings, and destruction of property in conflict zones. By integrating core IHL treaties and AU instruments into their adjudicative processes, these institutions have reinforced legal accountability while gradually clarifying the interplay between human rights and humanitarian law across the continent. Their advisory and contentious functions allow for proactive guidance and binding judgments, particularly in situations where armed conflicts threaten fundamental rights¹.

Collectively, regional human rights courts and commissions serve as indispensable intermediaries, enhancing the enforcement of IHL by interpreting international norms, ensuring State compliance, and promoting reparations and protection for affected populations, thereby complementing domestic enforcement mechanisms and contributing to a coherent regional framework for humanitarian accountability².

First section: The European Court of Human Rights (ECtHR) and Its Role in Armed Conflicts

The European Court of Human Rights (ECtHR) occupies a pivotal position in the interpretation and enforcement of human rights within contexts of armed conflict, serving as a critical interface between humanitarian law and human rights law. Although violations of International Humanitarian Law (IHL) do not formally fall under the European Convention on Human Rights (ECHR), the Court has progressively integrated IHL principles into its jurisprudence, particularly when adjudicating cases that implicate fundamental rights such as the right to life (Article 2), the prohibition of torture and inhuman or degrading treatment (Article 3), the right to liberty and security (Article 5), and the right to a fair trial (Article 6)³.

¹ - *Commission Nationale des Droits de l'Homme et des Libertés v. Chad*, African Commission on Human and Peoples' Rights, Comm. No. 74/92 (1995). <https://hrlibrary.umn.edu/africa/comcases/74-92.html>

² - *Commission Nationale des Droits de l'Homme et des Libertés v. Chad*, African Commission on Human and Peoples' Rights, Comm.op.cit.

³ - *Global Perspectives on Human Rights: Oxford Human Rights Hub Blog* edited by Laura Hilly and Claire Overman, Oxford University, <https://ohrh.law.ox.ac.uk/wp-content/uploads/2014/04/OxHRH-Global-Perspectives-on-Human-Rights.pdf>

Through individual applications under Article 34 and inter-State cases under Article 33, the ECtHR has addressed a broad spectrum of conflicts, including the hostilities between Turkish forces and the PKK, the Nagorno-Karabakh war, the Balkan wars, NATO interventions in the former Yugoslavia, and military operations abroad such as ISAF in Afghanistan. In each instance, the Court has emphasized the necessity of balancing State security imperatives with the protection of civilian populations, underscoring the principles of distinction, proportionality, and the mitigation of incidental harm¹.

The Court's jurisprudence demonstrates careful attention to limitations on derogations under Article 15 of the ECHR², ensuring that certain non-derogable rights including the right to life, the prohibition of torture, and protections against slavery remain inviolable, even during declared emergencies or martial law. By employing terminology and concepts derived from IHL, such as "legitimate military targets," "choice of means and methods," and "disproportionality of force," the ECtHR has effectively codified standards of conduct that guide States' behavior in armed conflict.

Despite these advances, the Court's enforcement role is inherently constrained by its jurisdiction, which primarily targets State actors, and by practical challenges associated with selective application or inconsistent invocation of IHL principles. Nonetheless, its rulings have materially contributed to clarifying the obligations of States, protecting civilians, and integrating IHL concepts into regional human rights law, thereby reinforcing accountability and enhancing the normative framework for the conduct of hostilities within Europe³.

The Second section: The Inter-American Court and Commission on Human Rights in Internal Armed Conflicts

The Inter-American human rights system, encompassing both the Inter-American Court of Human Rights (IACtHR) and the Inter-American Commission on Human Rights (IACmHR), has emerged as a vital mechanism for safeguarding human rights and, by extension,

¹ - *Hassan v. United Kingdom*; *Al-Jedda v. United Kingdom*; *Isayeva v. Russia*; *European Convention on Human Rights*, <https://www1.essex.ac.uk/hrc/documents/practice/amicus-curae.pdf>

² - *European Convention on Human Rights*, https://www.echr.coe.int/documents/d/echr/fs_derogation_eng

³ - *European Convention on Human Rights*; *McCann and Others v. United Kingdom*; *Greer*.

reinforcing International Humanitarian Law (IHL) obligations in the context of internal armed conflicts. While the system primarily functions under the American Convention on Human Rights, it has increasingly addressed situations in which internal hostilities expose civilians to grave risks, effectively bridging human rights law and humanitarian principles¹.

The Court and Commission operate within a dual framework of normative adjudication and supervisory oversight. Article 27 of the American Convention permits limited derogations during war or public emergencies, yet explicitly preserves core non-derogable rights, including the right to life, humane treatment, juridical personality, and freedom from slavery. Through its jurisprudence, the IACtHR has affirmed that essential judicial guarantees such as habeas corpus, amparo, and access to effective remedies must remain operative even in emergency contexts, ensuring that fundamental protections are not suspended during internal conflicts.

The Commission exercises a complementary mandate, monitoring compliance by State parties and investigating alleged violations through individual petitions or periodic reporting processes. Its intervention has been particularly influential in addressing widespread atrocities, including massacres, forced displacements, and extrajudicial killings. By consistently interpreting human rights obligations in light of IHL principles, the Inter-American system emphasizes the protection of civilians, the right to truth, and the provision of reparations for victims of serious violations².

Notwithstanding certain institutional limitations, including variable expertise in IHL among commissioners and judges, the Inter-American Court and Commission have substantially contributed to consolidating normative standards and clarifying State responsibilities in internal armed conflicts. Their jurisprudence not only strengthens accountability mechanisms but also fosters a culture of compliance with both human rights and humanitarian obligations, thereby enhancing the protection of affected populations across the Americas.

¹ - *International Criminal Court, Rome Statute (1998)*, *op.cit.*

² - *Inter-American Court of Human Rights*, *op.cit.*

The second Topic; International Enforcement of International Humanitarian Law

International enforcement of IHL relies on judicial, normative, and operational mechanisms to ensure State compliance in both international and internal conflicts. Treaty-based instruments, UN organs, the ICJ, and international criminal courts (ICC, ICTY¹, ICTR²) collectively provide monitoring, accountability, and reparations. These mechanisms complement domestic efforts, hold States and individuals responsible, and reinforce global humanitarian norms. Despite political and practical challenges, this layered international framework remains essential for deterring violations, protecting civilians, and ensuring justice where unilateral State action is insufficient.

The first requirement: United Nations and Treaty-Based Mechanisms

International enforcement of International Humanitarian Law (IHL) relies fundamentally on a combination of treaty-based frameworks and the operational capacities of the United Nations (UN) system. Treaty provisions, particularly those embedded in the 1949 Geneva Conventions and the 1977 Additional Protocol I, establish the foundational norms and procedural mechanisms for overseeing compliance, including the role of Protecting Powers, ad hoc fact-finding commissions, and the standing International Fact-Finding Commission (IFFC). While these mechanisms have historically been underutilized due to the necessity of State consent and political considerations, they provide an essential normative baseline for the protection of civilians and the supervision of hostilities³.

The United Nations complements these treaty-based instruments by offering both normative and operational enforcement capacities. The Security Council, empowered under Chapter VII of the UN

¹ - *International Criminal Tribunal for the former Yugoslavia*. 1993 - 2017 , United Nations The International Criminal Tribunal for the former Yugoslavia (ICTY) <https://www.icty.org/>

² - *Statute of the International Tribunal for Rwanda*, United Nations International Criminal Tribunal for Rwanda https://legal.un.org/avl/pdf/ha/ict_r_EF.pdf

³- *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, 8 June 1977, <https://ihl-databases.icrc.org/en/ihl-treaties/api-1977/article-90/commentary/1987>

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Charter, possesses the authority to respond to threats to international peace and security, employing measures ranging from sanctions and arms embargoes to the authorization of peacekeeping operations with robust mandates to protect civilians. These interventions extend the enforcement of IHL beyond State borders and create mechanisms to deter, investigate, and sanction serious violations¹.

Concurrently, the UN General Assembly contributes through normative leadership and agenda-setting, issuing resolutions, codifying standards, and guiding subsidiary bodies such as the International Law Commission (ILC) and the Human Rights Council (HRC). The General Assembly's initiatives, including the adoption of the Basic Principles on the Right to a Remedy and Reparation for Victims of Gross Human Rights and IHL Violations and the Responsibility to Protect (RtoP) doctrine, underscore the collective responsibility of States and the international community in ensuring adherence to IHL².

These treaty-based and UN mechanisms operate synergistically: while treaties define the substantive obligations of States and establish procedural norms for monitoring and fact-finding, UN organs translate these obligations into actionable measures, including peace operations, advisory opinions, and referrals to international criminal tribunals. This dual structure normative and operational creates a robust framework to reinforce compliance, deter violations, and provide remedies for victims of armed conflict. Despite practical challenges, including selective engagement and political constraints, the combination of treaty obligations and UN oversight remains central to sustaining international accountability under IHL³.

¹ - United Nations , Security Council , Resolution 1265 (1999) S Adopted by the Security Council at its 4046th meeting, on 17 September 1999
[https://docs.un.org/en/s/res/1265\(1999\)](https://docs.un.org/en/s/res/1265(1999))

² - Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law : resolution / adopted by the General Assembly

[UN. General Assembly \(60th sess. : 2005-2006\)](https://digitallibrary.un.org/record/563157?ln=fr&v=pdf)

<https://digitallibrary.un.org/record/563157?ln=fr&v=pdf>

³ -(Protocol I), 8 June 1977, op.cit.

First section: Treaty-Based Mechanisms: Protecting Powers and Ad Hoc Inquiry Commissions

Within the framework of International Humanitarian Law (IHL), treaty-based mechanisms constitute the foundational instruments for ensuring compliance and monitoring the conduct of armed conflicts. Among these, the role of Protecting Powers, as established under the Geneva Conventions, remains a central feature. Protecting Powers are entrusted with multifaceted responsibilities, including visiting prisoners of war and protected persons, facilitating communication between parties, and assisting in judicial or administrative proceedings related to alleged violations. Despite their normative significance, the practical activation of Protecting Powers has historically been limited, reflecting the dependence on consent from the parties to the conflict and the political sensitivities inherent in submitting to third-party oversight. Nonetheless, they provide an essential channel for independent observation and mediation, reinforcing the obligations of States to respect the law of armed conflict¹.

Complementing the Protecting Powers, ad hoc inquiry commissions are explicitly authorized under the Geneva Conventions to investigate claims of serious violations upon the request of a party to the conflict. These commissions are designed to collect evidence, evaluate allegations, and provide authoritative findings, thereby supporting compliance and accountability. Their deployment, however, is similarly constrained by the requirement of party consent, which has historically limited their operational use. Recognizing these limitations, the international community later established the International Fact-Finding Commission (IFFC) under Article 90 of Additional Protocol I, which functions as a standing body capable of investigating grave breaches and facilitating restoration of respect for IHL through its good offices. The limited operational history of both ad hoc commissions and the IFFC underscores the persistent challenges of enforcing treaty-based obligations in complex conflict settings.

Overall, Protecting Powers and ad hoc inquiry commissions, while infrequently invoked in practice, represent essential instruments of treaty-based enforcement, providing normative guidance, impartial

¹ - Geneva convention relative to the protection of civilian persons in time of war of 12 august 1949.op.cit.

oversight, and structured mechanisms for investigating and addressing violations. Their existence reinforces the principle that compliance with IHL is a shared responsibility of States, codified through binding international agreements, and anchored in the broader architecture of international law¹.

The second section: The UN Security Council: Resolutions, Peacekeeping Operations, and Civilian Protection

The United Nations Security Council (UNSC) occupies a central role in the international enforcement of International Humanitarian Law (IHL), deriving its authority from Chapter VII of the UN Charter to address threats to international peace and security. The Council's enforcement capacity manifests both normatively, through the adoption of binding resolutions, and operationally, through the authorization of peacekeeping missions and other interventions. Resolutions under Articles 41 and 42 empower the Council to impose non-military measures, such as sanctions, travel bans, and arms embargoes, or, when necessary, to authorize military action to prevent or halt grave violations of IHL.

Peacekeeping operations established by the UNSC have increasingly incorporated the Protection of Civilians (POC) as a core mandate, obligating deployed forces to actively safeguard civilian populations from serious breaches of human rights and IHL. These operations demonstrate the Council's dual capacity to enforce normative standards while providing direct, on-the-ground protection. By operationalizing civilian protection, the UNSC contributes to mitigating the humanitarian consequences of armed conflict, upholding the principles of distinction and proportionality, and ensuring that parties to hostilities are held accountable for violations affecting non-combatants.

Moreover, the UNSC reinforces accountability through its referral powers, having established ad hoc tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR), and by referring situations to the International Criminal Court (ICC), as in the cases of Darfur and Libya. While political considerations and the selective exercise of authority may constrain its consistent application, the Council remains an indispensable actor in shaping international responses to armed conflicts and in promoting compliance with IHL through a

¹ -*Ibid.*

combination of legislative, operational, and accountability-oriented measures¹.

The third section: The UN General Assembly and Subsidiary Bodies: Human Rights Principles and the Responsibility to Protect (RtoP)

The United Nations General Assembly (UNGA), alongside its subsidiary organs, constitutes a pivotal normative and operational mechanism for the enforcement of International Humanitarian Law (IHL) and the promotion of human rights standards in armed conflicts. Drawing authority from Articles 10–15 of the UN Charter and reinforced by the “Uniting for Peace” resolution (A/RES/377(V), 1950), the UNGA exercises its normative function by issuing resolutions that articulate the obligations of States under both human rights and humanitarian law frameworks. Through its resolutions and declarations, such as the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of IHL (A/RES/60/147, 2005), the Assembly codifies international expectations and provides guidance for compliance and accountability².

Operationally, the UNGA’s enforcement mandate is supported by subsidiary bodies, notably the International Law Commission (ILC) and the Human Rights Council (HRC). The ILC advances the progressive development and codification of international law, addressing issues directly pertinent to IHL, including the obligation to extradite or prosecute (*aut dedere aut judicare*), the responsibility of States and international organizations for internationally wrongful acts, and the protection of civilians and the environment during armed conflict.

The Responsibility to Protect (RtoP) doctrine, formally adopted by the UNGA in 2005 (A/RES/60/1), further reinforces State accountability in situations of mass atrocity. RtoP delineates a tripartite framework: the primary responsibility of States to protect the international community’s supportive role in capacity-building and assistance; and the requirement for timely and decisive action when

¹ - *United Nations , Security Council , Resolution 1265 (1999, op.cit.*

² - *Charter Of The United Nations And Statute Of The International Court Of Justice, SAN FRANCISCO 1945*

<https://treaties.un.org/doc/publication/ctc/uncharter.pdf>

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States fail to fulfill these responsibilities. populations from the Universal Periodic Review (UPR) and the mandates of Special genocide, war crimes, ethnic cleansing, and crimes against humanity; Through mechanisms such as Rapporteurs, the Assembly and its subsidiary bodies monitor, investigate, and promote remedies for violations, thereby integrating IHL principles into broader human rights governance structures¹.

Collectively, the UNGA and its subsidiary organs function as a normative compass and practical oversight mechanism, ensuring that both State conduct and international cooperation align with the dual imperatives of human rights protection and compliance with IHL, while fostering accountability for grave violations.

The second requirement: International Courts and Criminal Justice

The enforcement of International Humanitarian Law (IHL) at the global level is profoundly reinforced through international judicial institutions and criminal justice mechanisms, which serve to uphold accountability, clarify State responsibilities, and provide reparations for victims of serious violations. Central to this architecture is the International Court of Justice (ICJ), the principal judicial organ of the United Nations. The ICJ's role encompasses the determination of State responsibility for breaches of IHL, the adjudication of reparations owed to States and individuals, and the indication of provisional measures to safeguard rights during armed conflicts. Its jurisprudence has systematically strengthened the normative foundations of IHL, clarifying its intersection with general international law, articulating core principles governing the conduct of hostilities, and reinforcing obligations to protect civilians and combatants alike. Notable cases, including *Armed Activities on the Territory of the Congo* (2005) and the *Wall Advisory Opinion* (2004), exemplify the Court's capacity to delineate the scope of State responsibility and the duty to repair harm arising from serious violations.

Complementing the ICJ's work, international criminal justice mechanisms operationalize individual accountability for grave

¹ - United Nations General Assembly. *Report of the International Law Commission on the Work of Its Seventy-First Session*, UN Doc. A/74/10 (2019). https://legal.un.org/ilc/documentation/english/reports/a_74_10.pdf

breaches of IHL. The International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), both established by the UN Security Council, extended the precedents of the Nuremberg and Tokyo tribunals while addressing the unique challenges of late 20th-century conflicts. These tribunals codified the grave breaches regime, clarified command and individual criminal responsibility, and applied fundamental IHL norms, including the prohibition of torture and genocide, as *jus cogens* obligations¹.

Building on these foundations, the International Criminal Court (ICC) has further refined the legal frameworks governing individual criminal liability and the reparation of victims. By prosecuting those most responsible for war crimes, crimes against humanity, and genocide, the ICC operationalizes the deterrent function of international criminal law while reinforcing the complementarity of domestic prosecution systems. Despite limitations in jurisdictional reach and enforcement capacity, these institutions collectively embody the international community's commitment to justice, accountability, and post-conflict reconciliation, ensuring that IHL violations are addressed not only at the State level but also through mechanisms capable of imposing individual criminal responsibility.

Through this dual architecture State responsibility adjudicated by the ICJ and individual accountability pursued by international criminal tribunals and courts international law provides a robust framework to deter violations, promote reparations, and consolidate norms of conduct in armed conflicts, thereby reinforcing the overarching architecture of IHL compliance globally².

First section: The International Court of Justice (ICJ) and State Responsibility for IHL Violations

The International Court of Justice (ICJ), as the primary judicial organ of the United Nations, occupies a pivotal position in the global enforcement of International Humanitarian Law (IHL). Its jurisprudence is central to clarifying State obligations and accountability in the event of serious breaches of IHL. The ICJ is

¹ - *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)* The International Court Of Justice <https://www.icj-cij.org/case/116>

² - *Hassan v. United Kingdom; Al-Jedda v. United Kingdom; Isayeva v. Russia; European Convention on Human Rights.*

entrusted with determining whether a State has violated IHL norms, adjudicating the corresponding reparations owed to affected States, legal entities, or individuals, and prescribing provisional measures to protect rights during ongoing armed conflicts.

Through landmark cases such as *Armed Activities on the Territory of the Congo* (2005) and the *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (2004), the ICJ has elucidated the principles of State responsibility, establishing that States are legally obliged to prevent violations, ensure respect for IHL, and provide adequate remedies when breaches occur. These rulings reinforce the understanding that violations of fundamental humanitarian norms such as the protection of civilians, prohibition of torture, and safeguarding of occupied territories impose direct legal obligations on States under both treaty law and customary international law¹.

The ICJ's jurisprudence not only consolidates the normative framework of IHL but also integrates it within the broader architecture of international law, promoting coherence, predictability, and uniform application of legal standards across jurisdictions. By articulating the specific duties of States in armed conflicts, including the obligation to repair harm caused by violations, the ICJ serves as an essential mechanism for upholding accountability, deterring future breaches, and reinforcing the rule of law at the international level.

Second section: International Criminal Courts (ICTY, ICTR, ICC) and Individual Criminal Responsibility

International criminal justice mechanisms strengthen the enforcement of IHL by holding individuals accountable for serious violations. Tribunals such as the ICTY, ICTR, and the ICC prosecute war crimes, crimes against humanity, and genocide, reinforcing the principle of individual criminal responsibility. Their jurisprudence clarifies doctrines like command responsibility and recognizes crimes such as sexual violence as war crimes. Together, these courts enhance accountability, deter future violations, and complement domestic justice systems.

¹ -*Ibid.*

Third section : Strengthening International Compliance with IHL through Legal Precedents and Mechanisms

International compliance with International Humanitarian Law (IHL) is strengthened through judicial precedents and global governance mechanisms. Decisions of the ICTY, ICTR, and ICC clarify principles such as individual and command responsibility and guide national and regional courts. At the same time, United Nations organs and the International Court of Justice (ICJ) reinforce accountability through resolutions, oversight, and legal interpretation. Together, these mechanisms create a coherent global framework that deters violations and promotes respect for humanitarian law.

Conclusion:

In conclusion, this study emphasizes the central role of enforcement in translating International Humanitarian Law from theoretical norms into tangible protection. The following text presents the key findings and practical recommendations to enhance accountability and safeguard civilians in armed conflicts.

Study Findings

This study reveals that the primary responsibility for enforcing International Humanitarian Law (IHL) lies with States, particularly through domestic legislation, investigation, and prosecution of grave breaches. Regional human rights mechanisms contribute by strengthening accountability and developing jurisprudence, though they cannot replace national enforcement. At the international level, institutions such as the United Nations, the International Court of Justice, and international criminal tribunals play a complementary role in addressing impunity. The findings also show that effective enforcement requires an integrated approach combining legal, institutional, and educational measures, while persistent structural gaps especially in non-international conflicts and evolving warfare technologies continue to challenge the full realization of IHL compliance.

Recommendations

The study recommends strengthening domestic legal frameworks to ensure the effective incorporation and prosecution of IHL violations, alongside improving training for military and judicial authorities. It also highlights the need to enhance regional mechanisms and reinforce cooperation with national systems to address accountability gaps. At the international level, greater coordination within the United Nations

and international criminal institutions is essential to combat impunity. Finally, promoting a culture of compliance and adapting enforcement mechanisms to emerging challenges, such as non-international conflicts and evolving military technologies, remains crucial for the effective implementation of International Humanitarian Law. List of Sources and References

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