



International Protection of Civilians in Combat Zones According to the Principles of International Humanitarian Law



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Abstract

Since the dawn of human existence on Earth, man has experienced various forms of conflict, particularly with one another, these conflicts have been driven either by inherent human impulses such as the struggle for survival or leadership or by the necessities of belonging to a group, given that an individual cannot meet all his needs alone, Consequently, human conflicts have, since antiquity, been governed by customary rules that people have traditionally respected. Over time, these customs evolved into formal legal rules, most of which are now codified and constitute what is known today as International Humanitarian Law. This body of law, through its principles, provides the general legal framework for protection in combat zones, both for combatants and civilians, it has also extended to include civilian objects, by establishing legal restrictions on the means and methods of warfare used by warring parties, with the aim of mitigating the devastating consequences of war and armed conflict.

Keywords

Law;
International Humanitarian;
Armed Conflicts;
Combatants;
Civilian Objects.

الكلمات المفتاحية

قانون؛
دولي إنساني؛
نزاعات مسلحة؛
مقاتلين؛
أعيان مدنية.

الحماية الدولية للمدنيين في مناطق القتال وفقاً لمبادئ القانون الدولي الإنساني

ملخص

لقد عاش الإنسان منذ نشأته على الأرض صراعات مختلفة لاسيما مع أخيه الإنسان فرضتها إما دوافع الطبيعة الإنسانية في حد ذاتها ومن ضمنها الصراع على البقاء أو القيادة، وإما أسباب فرضتها ضرورات الانتماء للجماعة على اعتبار أن الإنسان لا يستطيع تلبية حاجياته لوحده، وعليه ومنذ القدم حكمت الصراعات البشرية أعراف دأب البشر على مراعاتها تطورت هذه الأعراف لتصبح تشكل قواعد قانونية مكتوبة في أغلبها وتشكل ما يسمى بالقانون الدولي الإنساني في عصرنا الحديث، هذا الأخير تولت مبادئ إعطاء الإطار العام للحماية القانونية في مناطق القتال سواء للمقاتلين أو المدنيين وامتدت لتشمل الأعيان المدنية وذلك من خلال وضع قيود قانونية على طرق ووسائل القتال المتبعة من قبل الأطراف المتقاتلة في سبيل الحد من النتائج الوخيمة للحروب والنزاعات المسلحة.

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I- Introduction :

The development of societies and the organized political entities that govern them has led to the establishment of various forms of relationships between these entities. This evolution has been accompanied by the emergence of different types of conflicts, many of which have exceeded their conventional boundaries and, in numerous instances, have escalated to attempts to resolve them through warfare.

War was once considered a legitimate course of action without any restrictions under the rules of classical international law. However, the first initiatives of the international community to place absolute constraints on the use of warfare emerged through the provisions of the Hague Conventions of 1899 and 1907, which addressed the rules and customs of land warfare. These conventions, for the first time, emphasized the peaceful resolution of international disputes and went further by underscoring the necessity of addressing humanitarian concerns in areas of armed conflict.

International Humanitarian Law is a relatively modern and significant branch of public international law. It represents a major leap forward in efforts to provide protection during

Times of war or armed conflict, whether for military personnel themselves or for civilians and civilian objects in combat zones.

The rules of international humanitarian law are based on a set of fundamental principles, which branch out into explanatory provisions. Collectively, they aim to highlight and clarify the legal guarantees necessary to mitigate the consequences of armed conflicts and military operations, as outlined above.

In this article, we have sought to clarify the extent to which the principles of international humanitarian law ensure protection in combat zones for both individuals and property, whether civilian or military. This has been addressed through the following key question: **Do the principles of international humanitarian law and the rules derived from them ultimately provide legal protection for civilians in combat zones?**

To answer this question, our study has been divided into two sections. In the first section, we address the essence of international humanitarian law, while in the second section; we examine the principles of international humanitarian law.

II - Definition of International Humanitarian Law

International Humanitarian Law is defined as: "a set of rules that aim, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not participating in the hostilities, or who have ceased to do so, and restricts the means and methods of warfare; it is also referred to as the law of war or the law of armed conflict" (International Committee of the Red Cross, 2010, p. 13).

It is also defined as: "a body of rules that seeks to limit the humanitarian consequences of armed conflict or the law of war. The main objective of international humanitarian law is to restrict the means and methods of warfare used by the parties to a given conflict and to ensure the humane treatment and protection of persons who are not, or are no longer, directly participating in hostilities. In short, international humanitarian law comprises the rules of international law that establish minimum humanitarian standards to be respected in any situation of armed conflict" (Nils & Etienne, 2016, p. 19).

The jurist Mohamed El-Bachir defines it as: "the rules of international law that aim, in situations of armed conflict, to protect persons suffering from the consequences of such

conflict, as well as to protect buildings and property not directly involved in military operations" (Muhammed, 2007, p. 72).

Similarly, Salah El-Din Amer defines it as: "a set of internationally agreed-upon principles and rules that aim to limit the use of violence in armed conflicts by protecting individuals participating in hostilities, those who have ceased to participate, including the wounded, the injured, prisoners of war, and civilian objects, it also aims to ensure that violence in armed conflict is restricted solely to what is necessary to achieve military objectives" (Salah El-Din, 1976, p. 86)

The International Court of Justice has defined international humanitarian law as: "a set of rules that govern the conduct of hostilities and the rules that protect persons who are under the authority of the opposing party" (Nader Ahmed, 2016).

From the above definitions, it becomes clear that the subject matter of international humanitarian law can be summarized into two main areas. The first is the provision of protection for individuals not participating in combat operations, referring here to civilians and those who have ceased to take part in fighting, such as the wounded and prisoners of war. The second area concerns the imposition of limitations on the means and methods of warfare used by the parties to a conflict. These limitations manifest through the prohibition of certain types of weapon systems, as well as the restriction of combat methods by subjecting military plans to specific constraints, international humanitarian law consists of two main branches : the Geneva Law and the Hague Law.

The Geneva Law comprises legal rules that focus on the protection of war victims, whether they are military personnel or civilians, on land or at sea. This branch provides protection to persons who are unable to fight, such as the wounded, the sick, the shipwrecked, and prisoners of war.

The Hague Law, on the other hand, predominantly encompasses legal rules related to the regulation of the methods and means of warfare. In other words, it focuses on the management of combat operations.

The 1949 Geneva Conventions define the categories protected during armed conflicts, based on the subjects of each convention, The first Geneva Convention aims to protect the wounded and sick members of the armed forces on the battlefield, seeking to improve the condition, the second convention aims to improve the condition of wounded, sick and shipwrecked members of the armed forces at sea, the third convention addresses the protection of prisoners of war, while the fourth convention extends protection to civilians during wartime, including those living in occupied territories.

It is important to note that the fourth Geneva convention concerning the protection of civilian populations during armed conflict includes within the term civilian population, those civilians who are under the control of one of the parties to the conflict but are not its nationals, it also includes persons under the authority of an occupying power, such as internally or externally displaced persons children, women, stateless individuals, journalists, and refugees, this list is not exhaustive.

The forms of protection afforded to civilians during war or armed conflict include the safeguarding of their right to life, physical and mental integrity, and the respect of their legal rights. This ensures they are treated humanely, with dignity, and without discrimination of any kind.

In addition to the protection of civilians in conflict zones, the rules of international humanitarian law also prohibit certain methods and means of warfare in these areas, especially when their aims include:

Spreading terror and panic among civilian populations.

Using indiscriminate methods and means that fail to distinguish between combatants and non-combatants, the objective of such prohibitions is to ensure the protection of civilians, both individually and collectively, as well as to safeguard civilian objects intended for their service.

When the use of such methods and means results in serious damage to the environment, and when the extent of this damage covers vast areas or its effects persist over long periods of time as in the case with depleted uranium shells

And also when it causes severe injuries and unnecessary suffering, including the use of certain types of incendiary weapons or those that cause blindness.

It should be noted that the best manifestation of prohibiting certain means in warfare in the international community's adoption of various international instruments that prohibit the use of specific types of weapons.

II.1. Characteristics of International Humanitarian Law

It is well-established that the rules of international humanitarian law are distinguished by specific characteristics that set them apart from other branches of international law, even though they may share some similarities. These characteristics can be summarized as follows:

II.1.1. Its Rules Are International

International Humanitarian Law is a modern branch of public international law. As such, it derives its rules, foundations, and sources from this body of law, which serves as the general framework. Consequently, it follows the same enforcement mechanisms, particularly concerning the entities responsible for its implementation. However, international humanitarian law is also characterized by particular features, especially in terms of its subjects, sources, scope of application, and the legal nature of its rules (Khaled Mustapha, 2011, pp. 20-21).

The rules of public international law serve as the foundational basis upon which the rules of international humanitarian law are built, although they have undergone significant subsequent developments. Initially the rules of public international law aimed to regulate internal relations between states and individuals, particularly focusing on the

protection of minorities through international human rights law. This reflects the international community's efforts to promote and uphold human rights on both individual and collective levels. Subsequently, the regulation of these relations evolved to include situations of war, and later, armed conflict. This was achieved by subjecting military operations to international legal constraints, especially protective ones, aimed at safeguarding non-participants in hostilities, civilian objects used for their benefit, and even the combatants themselves (Jean , 1984, p. 15).

One of the distinctive features of international humanitarian law is the binding nature of its rules. In light of this binding nature states are obligated to comply with the rules and principles of international humanitarian law. Any violation of these rules and principles of international humanitarian law results in the emergence of international responsibility. Moreover states are prohibited from negotiating any matters that would contravene peremptory norms enshrined in this body of law.

Article 53 of the Vienna Convention on the Law of Treaties affirms the binding nature of international humanitarian law, stating that "A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law" (Ahmed, 1998, p. 1).

Given the aforementioned characteristic, the rules of international humanitarian law are peremptory norms akin to those of general international law. This means that these rules must be implemented in good faith, and any breach of them gives rise to international and personal responsibility. This includes the right to claim compensation, in addition to personal criminal liability, as previously noted.

Furthermore, Article 60 of the Vienna Convention on the Law of Treaties states that: "The provisions prohibiting reprisals against protected persons in such treaties have the nature of peremptory norms" (Article 53 , 1969, p. 18).

In conclusion, the rules of international humanitarian law are international peremptory, which means they are binding and must be implemented in good faith. Failure to comply results in the emergence of responsibility.

II.1.2. Its Rules Are Based on Consent

This characteristic implies that states implement its rules voluntarily; in other words, the accession of states to treaties constituting sources of International Humanitarian Law is based on their own will. However, regarding this voluntary aspect, it is important to highlight a crucial point: the imperative nature of many of its rules must be taken into account. Consequently , the rules of international humanitarian law are binding upon members states ratifies a treaty forming part of international humanitarian law with reservations , such reservations must not undermine the essence of these treaties to the extent that they nullify the objectives for which they were established.

II.1.3. Universality of Its Rules

This means that international humanitarian law addresses all states, without discrimination or restriction to a specific group of countries. Its provisions apply equally to all conflicting parties, without bias of favoritism. As a result, its rules enjoy widespread acceptance among states.

II.1.4. A Law Aimed At Protecting Human Beings and Their Environment

The purpose of this law is to provide the necessary protection for human beings and their environment in a broad sense, especially during armed conflicts. Its role is not to prevent war as that does not fall within the core functions of international humanitarian law.

It is important to note in this regard that the rules of international humanitarian law significantly overlap with those of international human rights law, particularly in terms of applicable norms. However, international humanitarian law rules are specifically applicable during armed conflicts and to specific categories of persons, whereas international human rights law applies during peacetime.

II.1.5.The Mixed Nature of Its Rules

Upon examining its provisions, one notices that international humanitarian law intersects in several areas with both international public law and international criminal law, particularly concerning issues

Of criminal responsibility and the definition of crimes. It also shares common ground with international human rights law, as previously noted.

It must be emphasizing that the rules of international humanitarian law take precedence in application during armed conflict, even if their provisions contradict another treaty ratified by a part to the conflict (Al-Montaser Said, 2010, pp. 18-19).

II.1.6. Its Rules Derive from Multiple Sources

Article 38 of the Statute of the International Court of Justice confirms that, when addressing disputes before it, the Court applies international conventions, international custom, general principles of law, judicial decisions, and not to forget international legal doctrine.

Analyzing Article 38 reveals the diversity of international humanitarian law's sources, which include both formal and informal sources, as well as treaty-based and customary sources, without forgetting the other two sources, namely legal doctrine and judicial rulings.

II.2. The Principles of International Humanitarian Law

War has long been a legal phenomenon that has attracted the attention of jurists and philosophers, who have sought to establish rules for its regulation and to mitigate its impact. One of the earliest contributors to this discourse was the international legal jurist Grotius. These efforts were eventually consolidated with the adoption of the First Geneva Convention in 1864 (Sharif, 2005, p. 9).

The work of philosopher Jean-Jacques Rousseau in the 17th century marked a foundational moment in the development of the principles governing warfare. Rousseau stated: «War is not, in essence, a relationship between man and man, but a relationship between states, in which individuals become enemies only incidentally, not as human beings or citizens, but as soldiers, since the goal of war is to destroy the enemy state, it is permissible to kill its defenders as long as they bear arms. However, they do not remain enemies or agents of the

Enemy merely by surrendering and laying down their arms; they once again become simply human beings, and it is not permissible to violate their right to life.»

In 1899, «Martens» established another principle of those that address cases not covered by international humanitarian law, stating: «... civilians and combatants remain under the protection and authority of the principles of international law derived from established customs, the principles of humanity, and the dictates of public conscience» (Khalil Ahmed Khalil, 2008).

The work of the Saint Petersburg meeting held on 29th November 1868 culminated in the issuance of an important declaration that formulated the principles of distinction, military necessity, and the prohibition of unnecessary suffering.

The two additional protocols of 1977 undertook the development of the aforementioned principles, especially the principle of distinction.

The principles of international humanitarian law are considered the result of an attempt to balance two opposing concepts: humanity and necessity, these principles are codified in one form or another in the Hague Conventions of 1899 and 1907, the four Geneva Conventions of 1949 concerning the protection of war victims, the 1954 Hague Convention for the Protection of Cultural Property, and the two Additional Protocols of 1977, along with other agreements (Gharbi, 2016, p. 27).

Due to the importance of these principles upon which international humanitarian law is founded, it is necessary to clarify them in detail as follows:

II.2.1. The Principle of Humanity

This principle extends to the protection of human dignity in all situations and circumstances during wartime, whether the person is a combatant or a civilian, in an effort to reduce their suffering by providing them with the necessary care in times of war or armed conflict. This is the highest aim of the Geneva Conventions and other international treaties and customs that collectively form the rules of international humanitarian law.

The rules of international humanitarian law whether customary or treaty-based require the humane treatment of victims of war and armed conflict in a manner befitting human dignity, based on this principle. This protection includes respecting their right to life and preserving their honor and integrity, without discrimination in treatment based on religious, political, or ethnic affiliation, these rules also prohibit using people as human shields during military operations

or seizing their property (Tayeb , 2015-2016, p. 25), this principle is enshrined in all the Geneva Conventions of 1949 in Article 12, except for the Fourth Geneva Convention, which includes it in Article 13.

The practical importance of this principle is particularly evident in combat zones, where its observance is mandatory for the parties to the conflict, whether in situations not regulated by international treaties, or when the parties involved are no signatories to such agreements. This is reflected in the prohibition against targeting individuals who are not participating in hostilities, whether civilians or combatants who have ceased to take part in the fighting, that is, persons who have become hors de combat. This prohibition arises out of respect for and enforcement of the principle of humanity.

The Geneva Conventions have elaborated on the fundamental principles upon which international humanitarian law is based, including the principle of humanity. Accordingly, the Conventions stipulate that parties to a conflict must impose limitations on the use of force during military operations, ensuring that such operations conform to the requirements of this principle and avoid manifestations of cruelty in treatment. Consequently, parties to the conflict must refrain from the following:

- Deliberate killing, as the right to life is among the most fundamental and sacred human rights.
- Violations of human dignity, honor, and personal integrity, including the use of civilians as human shields or as subjects of various experiments.
- Discrimination in assistance, treatment, and access to various services.
- Failure to respect family rights, beliefs, and traditions.
- The use of any form of torture, regardless of its purpose.
- Confiscation or destruction of property in violation of the provisions of military necessity.
- Inhumane treatment of prisoners of war or forcing them to fight against their own countries.

These are the most important implications of the principle of humanity, which must be observed by the parties to a conflict, even if they have not ratified the international agreements containing the rules of international humanitarian law, as these agreements have attained widespread acceptance by the international community and must therefore be respected.

II.2.2.The Principle of Distinction

This principle requires parties to an armed conflict to distinguish between civilians and combatants, as well as between military objectives and civilian objects used to serve civilian populations (International Committee of the Red Cross, 2014, p. 12). This principle constitutes the essential foundation upon which the provisions of the two Additional Protocols to the 1977 Geneva Conventions are based.

The principle is grounded in the recognition that the sole legitimate purpose of warfare is to direct combat operations against the enemy's military forces in order to weaken them. Accordingly, parties must refrain from targeting civilians or directing military operations against them, and civilians are to be granted comprehensive protection from the dangers resulting from military operations.

This principle was first articulated in the Saint Petersburg Declaration of 1868 concerning international armed conflicts. It emphasized that «...It is intended that the actions of the offending party should mitigate the calamities of war as much as possible, and the only legitimate aim which States should pursue during war is the weakening of the military forces of the enemy.»

In the Hague Conventions of 1904, specifically concerning the laws and customs of war on land, the principle of distinction was addressed in Article 25 (Amer, 1993, p. 17), which states that parties to a conflict must refrain from attacking undefended towns, villages, dwellings, or buildings not used for military purposes by any means of offensive action.

Articles 48, 51², and 52² of the First Additional Protocol of 1977 to the Geneva Conventions codify the principle of distinction. Article 48 of the Protocol emphasizes that «Parties to the conflict shall at all times distinguish between the civilian population and combatants in order to ensure respect for and protection of the civilian population and civilian objects.» Furthermore, the distinction between civilian objects and military objectives must be made, and operations must only be directed at military targets.

II.2.3.The Principle of Military Necessity

The concept of necessity has various applications in life, and thus its meaning differs depending on the context. Linguistically, "necessity" refers to compulsion, urgent need, or unavoidable hardship, what one is driven to out of essential need. A person of necessity is one in need (Amer, 1993, pp. 19-20); it is a term derived from a condition of

constraint or urgent requirement. Thus, the general primary meaning refers to that which is unavoidable and leaves no room for choice. “Military” is a modifier indicating the context of warfare (Jean , 2017, pp. 45-47, 63).

In legal terminology, the concept of necessity varies depending on the perspective from which it is viewed. It is sometimes defined philosophically as «that which could not have been otherwise» (Amer, 1993, p. 27) and has also been described by Islamic jurists as «that which is not usually tolerated without great hardship.» The concept of necessity is universally recognized across all branches of law.

Within the framework of international humanitarian law, the concept of military necessity is characterized by its flexible and elastic nature, making it difficult to precisely define its particulars or draw its boundaries. This is due to the diversity in the foundations, sources, and nature of each armed conflict; these variations have been reflected in the texts of international humanitarian law, as they lack a clear definition of military necessity. The matter has thus been left to international humanitarian law scholars and commentators to attempt to provide a definition.

International law scholars have defined it as: «A situation so urgent that it leaves no time for the warring parties to choose the means used in their immediate military operations.»

Saint Petersburg Declaration of 1864 is considered the first step in the Hague tradition, as it included reference to the principle of military necessity alongside humane treatment. The declaration stated: “The only legitimate object which States should endeavor to accomplish during war is to weaken the military forces of the enemy.” This implies that whatever is necessary to weaken the enemy is legitimate, while what is not useful to achieve that purpose is illegitimate. Accordingly, war entails the use of coercive means strictly necessary to weaken the enemy’s forces. As a result, any violence not essential to achieving that objective loses its purpose and is deemed merely an act of brutality (Mohammed, 2005, p. 61) .

In consideration of the principle of humanity and sound human logic, it is preferred to capture rather than wound, and to wound rather than kill. Injuries should be as minimal as possible to allow for healing with the least pain and damage. Capturing should be done whenever possible, and non-combatants should be protected to the greatest extent possible (Ahmed A.-W. , 2006, p. 79).

II.3.The Relationship between International Humanitarian Law and International Human Rights Law

It is established that both legal systems aim to ensure protection for the human being in all aspects of life, particularly the right to life, which is the highest of all rights. They also ensure everything related to human dignity, since the human being is considered the most valuable entity on earth. These laws aim to guarantee both material and moral rights, where the latter is no less important than the former. It is inconceivable for a person to live in an environment that undermines their worth and dignity as a human being. As a result of this shared objective, there are points of convergence and overlap between the two legal frameworks.

It is also observed that, despite the similarity of their rules, the legal principles forming each system have developed independently at the theoretical level. Although both branches fall under public international law, their divergence arises from the different scopes of application and the specific international instruments that govern each. Notably, international humanitarian law applies exclusively during armed conflicts (Amer), whereas international human rights law applies in times of peace, and in some instances, continues to apply during armed conflict albeit with certain exceptions.

II.3.1: Points of Similarity

Both international humanitarian law and international human rights law share multiple points of similarity. The former applies in times of armed conflict, which constitutes an exceptional state of international relations, while the latter applies in peacetime, representing the normal state of such

- **In Terms of Sources:** Both legal systems derive their primary sources from international treaties and customary international law, which form the foundational principles of each. Being branches of public international law, their rules include provisions for protecting human beings in all their rights, both material and moral, with the right to life at the forefront, ensuring that it is preserved with dignity as a fundamental aspect of being human.

- **In Terms of the Content of Their Rules:** The rules that form both legal systems encompass all rights that ensure the protection of human life as a primary concern, along with the rights stemming from it, beginning with the right to live a dignified life, including its psychological and social dimensions (Amer, 2010, p. 162)

- **In Terms of Purpose:** Both legal systems aim to provide protection for the human being. This objective became especially prominent following the Tehran Conference on Human Rights, organized by the United Nations, the conference culminated in the adoption of important resolutions concerning the protection of individuals during armed conflicts. Similarly, the 21st Conference of the Red Cross, held in 1969 in Istanbul, Turkey, concluded with several resolutions reinforcing international humanitarian law. These resolutions emphasized the adoption of rules restricting the means used to defeat the enemy and to destroy its capabilities (Article 25, 1907).

- **In Terms of Protective Mechanisms:** The mere establishment of legal rules in any domain is not an end in itself; the enforcement and application of these rules is their ultimate purpose. For this reason, the provisions of both international humanitarian law and international human rights law include joint mechanisms to ensure the respect and enforcement of the rules they establish. These mechanisms can be summarized as follows:

- Prohibiting and criminalizing all actions that violate human rights, whether physical or moral.
- Establishing criminal and civil liability when any violation of a human-protection rule in either legal system is proven.
- Implementing mechanisms of investigation and inquiry into any act or conduct that involves a violation of the rules forming the basis of both systems.

- **In Terms of Common Principles:** It is well established that both legal systems are founded on shared principles, many of which are derived from general principles of international law aimed at protecting the human being in normal situations (i.e., during peace), whereas their application in international humanitarian law is considered exceptional, as it is strictly linked to the outbreak of armed conflict. Nonetheless, this difference in the triggering condition of application does not negate the existence of shared principles, which can be summarized as follows:

- Protection of the individual in terms of their person and property.
- Protection of moral rights, particularly regarding an individual's honor and the honor of their family, including customs and traditions within their community.
- Prohibition of all forms of torture.
- Prohibition of any form of discrimination in treatment and in access to rights.
- Respect for vulnerable population groups, including children, women, the elderly, and persons with special needs.
- Prohibition and criminalization of all retaliatory practices and methods.
- Prohibition of collective punishment and maltreatment of hostages by either side.

- **In Terms of Legal Nature:** It is established that the rules of both legal systems have a peremptory nature, as they are international in character. Therefore, compliance with their provisions is mandatory. Furthermore, violations of their rules give rise to criminal prosecution and civil liability, with no statute of limitations applicable to crimes resulting from such violations. Victims also retain the right to compensation.

II.3.2. Points of Difference

Just as international humanitarian law and international human rights law share points of similarity, they are also distinguished by various differences, as will be outlined in the following section:

- **In Terms of the Persons Addressed by Their Provisions:** The provisions of international humanitarian law (IHL) are directed toward providing protection to persons who do not participate in military operations or who have ceased to do so during armed conflicts. This includes wounded, sick, or captured combatants. In contrast, the rules of international human rights law (IHRL) are designed to protect all individuals within the jurisdiction of a state, regardless of their status (Jamal al-Din , 1990, p. 493).

- **Difference in Scope of Applicationm** International humanitarian law is applicable during armed conflicts. Therefore, its provisions become operative under a factual situation classified as an armed conflict, whether international or non-international. Accordingly, IHL provides protection to victims of armed conflict, including military personnel (such as the dead, wounded, and prisoners of war), as well as civilians and civilian objects serving them.

On the other hand, international human rights law is applied in times of peace, as it is primarily concerned with the promotion and continuous development of the rights of individuals and groups. This body of law is closely linked to international relations stability and the prevalence of peace, which represents the normal context for these rules. In contrast, war is considered an exceptional condition in international law and is governed by specific, restrictive rules (Mustafa , 1998, p. 191).

- **Difference in Enforcement Mechanisms:** It is a recognized principle that the goal of any legal rule whether national or international is not merely its formulation but rather its implementation and respect. Accordingly, the international community, in its effort to ensure compliance with International humanitarian law, has adopted a number of specific mechanisms, delegated to both international organizations and governmental and non-governmental bodies. Foremost among these bodies is the International Committee of the Red Cross (ICRC), the International Fact-Finding Commission established under the first Protocol of the Geneva Conventions, the International Criminal Court (ICC), and the Protecting Power system. These entities are tasked with monitoring the conduct of parties to a conflict, documenting violations of International humanitarian law, and supporting judicial accountability via international tribunals in accordance with the United Nations Charter.

In regard to international human rights law, enforcement and monitoring fall under the purview of intergovernmental and non-governmental organizations. At the forefront is the United Nations and its principal organs, particularly the Office of the High Commissioner for Human Rights (OHCHR) and the Human Rights Council...etc , among others. Specialized international organizations such as the World Health Organization (WHO), and regional bodies such as the European Court of Human Rights known for its extensive jurisprudence and the Inter-American Court of Human Rights, also play key roles in this context (Mourad , 2008, p. 394).

III - Mechanisms for Enforcing International Humanitarian Law

It is well established that the effectiveness of any legal system, regardless of its sources or characteristics, depends on the existence of mechanisms that ensure the monitoring and enforcement of its rules. The same applies to international humanitarian law, which includes not only substantive rules but also parallel enforcement mechanisms for ensuring their application on the ground. These mechanisms are divided into: International mechanisms, and National mechanisms.

III.1. International Mechanisms

While war was once regarded as a legitimate means under classical international law and was largely unregulated, the modern international community has moved gradually toward codifying the rules of warfare, ultimately restricting war to an exceptional instrument in international relations. States are now expected to exhaust peaceful means before resorting to armed force. Even when armed conflict does occur, regardless of its nature, the international community, through the rules of international humanitarian law, has undertaken to regulate the means and methods of warfare for conflicting parties. In order to ensure compliance with these rules, the international community has established monitoring mechanisms, particularly through the United Nations and the International Committee of the Red Cross (Shihab al-Din Ahmad , 2002, p. 30) .

III.1.1. The Role of the United Nations in Monitoring the Enforcement of International Humanitarian Law

The Preamble of the United Nations Charter emphasizes the obligation to resolve international disputes through peaceful means before resorting to war. It states:

“We the peoples of the United Nations are determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small” (Kalshoven - Liesbeth , 2010).

Article 2, paragraph 3 of the Charter asserts that "one of the fundamental objectives of the United Nations is for its members to settle disputes by peaceful means", reinforcing the principle that the use of military force is not permissible unless peaceful avenues have been exhausted.

As for the United Nations mechanisms intended to ensure monitoring the enforcement of international humanitarian law on the ground, it is evident that no comprehensive international enforcement system has yet been effectively established in this regard, with the exception of the Security Council. Under Chapter VII (seventh) of the Charter, in cases involving acts of aggression or threats to international peace and security, the Security Council may authorize the use of force against the violating state, provided no permanent member uses its veto power.

However, the frequent use of the veto power, especially by the United States, has severely limited the Council's ability to act. A recent and stark example is the genocidal war on Gaza in 2024, which continues to the present day, during which Security Council resolutions condemning Israel's violations of international humanitarian law were repeatedly blocked demonstrating the paralysis of UN mechanisms in such crises.

III.1.2. The Role of the International Committee of the Red Cross in the enforcement of international humanitarian law

The ICRC is an independent, neutral, and humanitarian organization of great significance on the international level. Since its establishment in 1863, this organization has been guided by the provisions of international humanitarian law, particularly the principles upon which it is based, which are considered the backbone of the humanitarian work of this committee. Among the most important of these principles are the well-known principle of humanity, the principle of non-discrimination, and the principle of equality among individuals regardless of status.

The states have entrusted the International Committee with the task of monitoring the proper implementation of international humanitarian law. To fulfill this mission, the committee undertakes several measures, including bilateral and multilateral actions aimed at encouraging compliance and promoting the development of these rules.

III.2. National Mechanisms for Enforcing International Humanitarian Law

National mechanisms play a critical and central role in the implementation of international humanitarian law, especially in disseminating its principles among the public, including military personnel, and ensuring that a judicial system is in place to prosecute violations, thus ensuring effective compliance and broader societal integration. These mechanisms can be summarized as follows:

III.2.1. The Role of the State in Enforcing International Humanitarian Law

The state's role is centered on respecting its international obligations arising from international instruments related to the rules of international humanitarian law; particularly in accordance with Common Article 1 shared by the four Geneva Conventions of 1949, which stipulates: "The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances", the role of the state also extends to incorporating international humanitarian law norms into its educational curriculum, especially at the university level, to ensure the dissemination of these principles throughout society.

III.2.2. The Role of National Red Cross and Red Crescent Societies

These committees form the foundation of humanitarian action. They operate in accordance with national legislation of the state while adhering to the principles of international

Humanitarian law. As independent national organizations, they perform various functions during normal and exceptional situations, including providing medical assistance, alleviating suffering during disasters and crises, conducting relief operations in times of armed conflict, and offering both material and moral support, particularly psychological support through pre-approved national plans in this regard. These actions align with international treaties, related to international humanitarian law, particularly the Geneva Conventions, their Additional Protocols, and the two International Covenants.

IV- Conclusion:

From the foregoing, it becomes clearly evident that the international community, through the enforcement of the principles of international humanitarian law in combat zones and the obligation imposed on warring parties to respect them, has pursued a single objective: the protection of all parties in combat zones, particularly civilians, who are considered the most vulnerable group in armed conflicts. This protection is ensured by imposing restrictions on the warring parties through what is known as the Hague Law, which governs the means and methods of warfare and the protection of war victims, whether civilians or combatants through what is known as the Geneva Law. However, despite this noble effort by the international community, the rapid development of weapons systems characterized by both their destructive capacity and their so-called precision, as well as the growing complexity of modern armed conflicts, have rendered the principles of international humanitarian law and the rules derived from them insufficient to fully guarantee legal protection for civilians in combat zones. As a result, civilians have become the majority of victims in such conflicts. This reality highlights the urgent need for the international community to revisit and further develop these principles and their derived rules, and to expand the scope of protection granted to civilians in combat zones.

Findings

1. The military necessity principle has been manipulated in armed conflicts as a pretext to evade responsibility by treating it as a legal justification for violating the rules of international humanitarian law.
2. Although international humanitarian law is specifically applicable during armed conflicts, this does not preclude the concurrent application of international human rights law, given its universal acceptance by the international community both in times of peace and armed conflict.
3. Monitoring mechanisms to enforce international humanitarian law, especially the deterrence of crimes require strengthening the International Criminal Court in carrying out its duties, particularly in the face of obstacles posed by major powers with permanent membership in the United Nations Security Council.
4. The field of protection of international humanitarian law rules in conflict zones, especially the enforcement of its rules against parties to armed conflict, remains insufficient due to double standards and dysfunction affecting the work of the Security Council.

Second: Recommendations

1. The United Nations, particularly the Security Council, must be reformed by expanding the list of permanent members to ensure geographical inclusivity and global representation.
2. Restrict the use of the veto power in matters concerning serious violations of the provisions of international humanitarian law.
3. Enhance the capacity of the International Criminal Court to carry out its mandate, particularly in light of obstruction by major states that are permanent members of the Security Council.

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