

International Humanitarian Law in the Balance of the Political Will of the Great Powers: Between the Transcendence of the Legal Rule and the Dominance of Real Power

القانون الإنساني الدولي في ميزان الإرادة السياسية للقوى العظمى: بين سيادة القاعدة القانونية وهيمنة القوة الفعلية

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Abstract:

This paper examines the complex relationship between International Humanitarian Law (IHL) and the political will of great powers, highlighting how the effectiveness of IHL largely depends on states' willingness to comply rather than on its intrinsic binding force. Despite the universal recognition of humanitarian norms, the selective application of IHL by major powers has undermined the credibility and universality of the legal system.

Through an analytical and critical approach, the study reveals that IHL's enforcement remains constrained by political interests and institutional asymmetries within the international system, notably the Security Council's veto power and the politicization of humanitarian mechanisms. The paper argues that strengthening the independence of humanitarian institutions, reforming international accountability mechanisms, and embedding humanitarian values into national and diplomatic practices are essential steps toward restoring the balance between legal supremacy and political realities.

Keywords: International Humanitarian Law, Political Will, Legal Supremacy, International Accountability, Humanitarian Governance.

ملخص:

تتناول هذه الورقة البحثية العلاقة المعقدة بين القانون الدولي الإنساني والإرادة السياسية للقوى العظمى، موضحةً أن فعالية القانون الدولي الإنساني تعتمد إلى حد كبير على استعداد الدول للامتثال له، وليس على قوته الملزمة الذاتية. فعلى الرغم من الاعتراف العالمي بالمعايير الإنسانية، فإن التطبيق الانتقائي للقانون الدولي الإنساني من جانب القوى الكبرى قد قوض مصداقية النظام القانوني وعالميته، ومن خلال المنهج التحليلي والنقدي، تكشف الدراسة أن إنفاذ القانون الدولي الإنساني لا يزال مقيّدًا بالمصالح السياسية والتفاوتات المؤسسية داخل النظام الدولي، ولا سيما حق النقض الذي يتمتع به مجلس الأمن وتسييس الآليات الإنسانية. وتؤكد الورقة أن تعزيز استقلالية المؤسسات الإنسانية، وإصلاح آليات المساءلة الدولية، وترسيخ القيم الإنسانية في الممارسات الوطنية والدبلوماسية، هي خطوات أساسية نحو استعادة التوازن بين سمو القانون والحقائق السياسية.

الكلمات المفتاحية: القانون الدولي الإنساني – الإرادة السياسية – سمو القانون – المساءلة الدولية – إدارة الشؤون الإنسانية.

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Introduction

International humanitarian law (IHL) constitutes one of the most significant branches of public international law, representing the moral conscience of the international community. It was established to protect human beings from the ravages of war and armed conflict, to alleviate the suffering of civilians, and to ensure respect for human dignity even under the harshest circumstances. However, the practical implementation of its provisions reveals a clear gap between the proclaimed principles and the lived reality—a gap that is often attributable to the political will of states, particularly major powers that shape the course of international relations and reshape its rules according to the balance of power and national interest¹.

It has become increasingly evident today that the respect for international humanitarian law does not depend solely on the clarity of its provisions or the strength of its binding force, but rather on the willingness of major powers to implement it equitably, free from the selectivity and double standards that have characterized their positions in contemporary conflicts. When their strategic interests are at stake, political justifications frequently take precedence over legal obligations, thereby depriving the provisions of their humanitarian content and undermining the notion of the universality of law².

In light of this reality, this article seeks to examine the interaction between law and politics in the field of international humanitarian law implementation, by analyzing the impact of the political will of major powers on the observance or violation of its rules. The objective is not merely to highlight the extent of political interference in the humanitarian domain, but also to explore the limits of legal legitimacy in the face of the logic of realpolitik, and the potential for establishing a new balance between the two³.

In this context, we pose the central problematic as follows: **to what extent does the political will of major powers affect the effectiveness of international humanitarian law, and is it possible to achieve a balance between the supremacy of legal norms and the imperatives of power and interest in the contemporary international system?**

From this perspective, the main hypotheses can be outlined as follows:

- The implementation of international humanitarian law remains largely contingent upon the will of major powers rather than its objective legal binding force.
- Selectivity in the application of humanitarian law provisions undermines its international legitimacy and entrenches double standards.
- Strengthening the independence of humanitarian mechanisms from the political will of major powers constitutes a prerequisite for the genuine enforcement of humanitarian law.

It is also worth noting that this article aims to:

- Analyze the nature of the relationship between international humanitarian law and the political will of major powers.
- Highlight the manifestations of selectivity in the application of humanitarian law in contemporary conflicts.
- Assess the effectiveness of existing international mechanisms in countering the dominance of political decision-making.
- Offer a perspective on restoring the balance between legal legitimacy and the imperatives of international politics.

Naturally, this article relies on the analytical-descriptive method to study the relevant international legal texts, the critical-comparative method to examine the political practices of major powers within international organizations, and the realist approach to interpret the relationship between power and law within the framework of the contemporary international system⁴.

The significance of this article lies in its addressing of the problem of double standards in the application of international humanitarian law at a time when conflicts are accelerating and the space for adherence to humanitarian values is shrinking. It also seeks to revisit the central question regarding the future of international humanitarian law in a system governed more by political will than by legal norms, thereby endowing the study with both theoretical and practical dimensions⁵.

Section One: The Legal Basis of International Humanitarian Law and the Limits of Its Binding Force

International humanitarian law (IHL) constitutes the foundational legal framework regulating the conduct of parties engaged in armed conflicts, with the primary aim of reconciling the imperatives of military necessity with the imperatives of humanity. Its normative legitimacy derives from an integrated system of international treaties and customary norms that enshrine the principle of human protection during armed hostilities. Foremost among these are the four Geneva Conventions of 1949 and their two Additional Protocols of 1977, which together constitute the supreme reference framework for all humanitarian rules applicable in armed conflicts⁶.

The Geneva Conventions, along with customary humanitarian law, represent not only a legal codification but also the moral conscience of the international community, reflecting the attempt to restrain the effects of war through legally binding obligations. Their authority, however, is often tempered by political considerations, a point explored in subsequent sections of this study⁷.

While the textual provisions of IHL appear universally binding, their practical application is frequently influenced by the political will of major powers, highlighting the persistent tension between legal normativity and power politics. This duality underscores the need for an approach that considers both legal formalism and the *realpolitik* of enforcement mechanisms in international relations⁸.

A. The Normative Basis of International Humanitarian Law

The Legal Legitimacy of International humanitarian law (IHL) derives its legal legitimacy from a composite framework of sources that collectively constitute its normative architecture, conferring binding authority upon both States and non-State actors in armed conflicts. This multi-layered foundation underscores the dual nature of IHL—as both a codified body of obligations and a reflection of customary norms universally recognized as essential to safeguarding human dignity in times of war⁹.

From a treaty perspective, the four Geneva Conventions of 1949 and their two Additional Protocols of 1977 represent the cornerstone of the contemporary humanitarian regime. These instruments meticulously regulate the protection of the wounded, the sick, prisoners of war, and civilian populations, and articulate fundamental guarantees applicable in both international and non-international armed conflicts. Beyond their legal function, they embody an ethical codification of the collective conscience of humanity, affirming that even warfare must remain subject to law. Their quasi-universal ratification—spanning nearly every member of the international community—testifies to their normative universality and moral authority, even as implementation remains uneven¹⁰.

From a customary law standpoint, the International Committee of the Red Cross (ICRC)'s 2005 study on Customary International Humanitarian Law codified a systematic inventory of rules derived from State practice and *opinio juris*. These rules serve to fill normative gaps where treaty obligations have not been formally accepted, ensuring that essential principles—such as distinction, proportionality, and protection of non-combatants—maintain near-universal validity. Customary IHL thereby reinforces the continuity of humanitarian protection and mitigates the risks of legal fragmentation across diverse legal systems and political contexts¹¹.

Furthermore, the principle of international responsibility strengthens the binding nature of IHL by imposing obligations on both States and organized armed groups for violations of its provisions. This principle is operationalized through national jurisdictions and international judicial mechanisms, notably the International Criminal Court (ICC) established under the Rome Statute (1998). The ICC exemplifies the institutionalization of accountability, transforming humanitarian norms into enforceable obligations by prosecuting individuals for war crimes, crimes against humanity, and genocide. Nevertheless, the Court's effectiveness remains contingent upon the political will of major powers, whose selective cooperation or obstruction often undermines its impartiality and reach¹².

Collectively, these treaty-based, customary, and responsibility-oriented sources confer the legal legitimacy and moral authority of IHL. Yet the translation of this legitimacy into effective protection continues to face practical and political constraints, revealing the persistent tension between normative idealism and *realpolitik*. Bridging this divide necessitates not only reinforcing the institutional independence of humanitarian bodies but also ensuring that respect for IHL becomes an integral component of international political legitimacy¹³.

B. The Binding Nature of IHL and the Enforcement Gap

Despite the theoretical binding force of international humanitarian law (IHL), its practical effectiveness remains significantly constrained. This limitation primarily stems from the absence of robust and centralized enforcement mechanisms and from the law's profound dependence on the political will of States for both implementation and compliance. International bodies entrusted with safeguarding humanitarian norms—most notably the International Criminal Court (ICC) and the United Nations Security Council (UNSC)—do not operate independently of political considerations. Consequently, the enforcement of humanitarian justice frequently reflects selectivity and inconsistency, as certain violations are prosecuted vigorously while others are disregarded, mirroring the geopolitical priorities of dominant powers rather than the universality of legal principles¹⁴.

The French jurist Antoine Roumyet insightfully observed that IHL faces a “structural contradiction between its moral-humanitarian character and the reality of power relations in the international community”. This observation underscores the enduring tension between the ethical imperatives enshrined in humanitarian law and the political constraints that delimit its effective implementation. In practice, the normative content of IHL is frequently diluted by the strategic calculations of powerful States, transforming several of its provisions into aspirational rather than operational standards¹⁵.

A central challenge underlying this structural limitation lies in the absence of a centralized enforcement authority. IHL relies instead on mechanisms such as the “international conscience” and voluntary compliance, both of which are inherently contingent upon States' willingness to act in accordance with humanitarian norms. Within this framework, the political orientations of major powers—which command the material capacity and diplomatic leverage to shape the trajectories of peace and conflict—become decisive in determining the extent to which legal obligations are either respected or ignored. As a result, political will emerges as the primary determinant of the law's effectiveness, often subordinating normative principles to strategic and geopolitical considerations¹⁶.

This dynamic reveals a deeper paradox in the international legal order: although IHL embodies one of humanity's most sophisticated codifications of moral and legal conscience, its authority in practice is mediated by structures of power. Addressing this paradox necessitates a dual approach: reinforcing independent enforcement mechanisms that operate autonomously from political manipulation, and cultivating a political culture wherein compliance with humanitarian

norms constitutes not a constraint on sovereignty, but a measure of international legitimacy and moral authority¹⁷.

C. The Duality of Enforcement Between Norms and Power

International practice has generated a complex and ambiguous reality, wherein international humanitarian law (IHL) occupies a contested space between legal legitimacy and the legitimacy of power. While the textual framework of IHL asserts the universality of humanitarian principles, empirical evidence reveals a persistent duality in enforcement. Certain actors are held strictly accountable for violations, whereas major powers or their allies frequently enjoy *de facto* exemptions. This selective application is evident in numerous contemporary conflicts, including those in Iraq, Afghanistan, Gaza, and Ukraine, and reflects the primacy of political calculations over normative consistency.

Such dual enforcement undermines not only the foundational principle of equality before international law but also erodes the very notion of legal legitimacy. When compliance is contingent upon the balance of power rather than the authority of law, IHL risks being instrumentalized—it ceases to function purely as a protective legal framework and instead becomes a tool for legitimizing the policies of powerful states whenever their political will dictates.

This reality highlights a structural paradox within the international legal order: although IHL represents one of the most explicit codifications of humanity's moral and legal conscience, its efficacy remains constrained by geopolitical hierarchies. Addressing this paradox requires both the strengthening of independent enforcement mechanisms and the cultivation of a normative culture in which adherence to humanitarian law is recognized as an intrinsic component of international legitimacy, rather than a variable determined by strategic interests.

Within this global context, Algeria emerges as a paradigmatic example of a state that persistently reasserts the primacy of legal legitimacy over political expediency in the application of IHL. Rooted in its anti-colonial history and guided by constitutional principles of solidarity and justice, Algeria has consistently invoked the humanitarian foundations of international law to oppose selective enforcement, most notably in its diplomatic defense of the Palestinian cause before the United Nations¹⁸.

Through its interventions in the UN General Assembly and the Human Rights Council, Algeria has emphasized that the protection of civilians in occupied territories—particularly in Gaza and the West Bank—constitutes not merely a moral obligation but a binding legal duty under the Fourth Geneva Convention of 1949 and Additional Protocol I of 1977. By framing the Palestinian question within the legal lexicon of occupation, civilian protection, and grave breaches, Algeria challenges the politicization of humanitarian discourse and calls for the restoration of universal legal standards¹⁹.

Furthermore, Article 28 of the 2020 Algerian Constitution enshrines respect for international law and solidarity among peoples, institutionalizing a coherent linkage between Algeria's internal constitutional ethos and its external legal diplomacy²⁰. This has positioned Algeria as a normative actor advocating for the depoliticization of humanitarian law and the equal application of its rules to all conflicts, irrespective of the identity of the parties involved²¹.

By defending the universality of IHL and condemning double standards in its enforcement, Algeria offers a counter-narrative to the dominance of *realpolitik* in humanitarian governance. Its persistent advocacy demonstrates that medium-power diplomacy, when anchored in legal legitimacy and moral conviction, can contribute meaningfully to the re-humanization of international relations and the reaffirmation of justice as the cornerstone of peace²².

Section Two: The Political Will of Major Powers as a Determinant of the Effectiveness of International Humanitarian Law

The political will of states—particularly that of major powers—constitutes the decisive factor in determining the effectiveness of international humanitarian law (IHL). Despite its codified obligations, IHL lacks any intrinsic coercive force to ensure compliance, relying instead on the voluntary and equitable implementation by states. Within a global order shaped by asymmetric power relations and strategic calculations, legal obligations have increasingly become contingent upon the distribution of political will, rather than emanating from the inherent binding authority of legal norms²³.

This reality reveals a fundamental structural limitation within IHL: its normative universality—proclaimed in treaties and customary law—is constantly mediated, and at times distorted, by geopolitical realities that may either reinforce or undermine its enforcement. The principle of equality before international law, a cornerstone of humanitarian jurisprudence, thus risks erosion when power asymmetry determines compliance, effectively subordinating legal validity to political expediency²⁴.

The reliance on voluntary compliance further exposes a systemic tension between law and politics in the international legal order. Even when legal norms are clearly articulated and universally accepted, their practical enforceability remains conditioned by the strategic calculations of dominant states. This gap between *de jure* obligation and *de facto* practice has become a defining feature of contemporary humanitarian governance, explaining why IHL—despite its moral and legal authority—continues to suffer from selective enforcement, partial implementation, and the politicization of accountability mechanisms²⁵.

In this sense, the true challenge lies not merely in refining the text of humanitarian law, but in reconfiguring the political structures that govern its application, so that compliance ceases to depend on political discretion and becomes a matter of binding legal and ethical duty. Only then can IHL reclaim its universality and moral authority as a framework of protection, rather than an instrument contingent upon power²⁶.

A. The Political Nature of Compliance with Humanitarian Rules

In theory, international humanitarian law (IHL) is grounded in the principle of mutual respect for international obligations, presupposing that its rules are general, abstract, and binding on all states without distinction. However, in practice, compliance with IHL remains profoundly conditioned by the political will of states, particularly that of the major powers, whose strategic interests and geopolitical calculations frequently determine the scope and consistency of its application. The absence of a centralized coercive mechanism renders IHL dependent on voluntary adherence, transforming the enforcement of humanitarian norms into a function of political discretion rather than legal obligation²⁷.

This dependence on state will underscores a structural dilemma: the normative universality of IHL is continually mediated—and at times distorted—by the realities of international power politics. Even when legal norms are clear and universally recognized, their practical enforcement often hinges on the strategic calculations of influential states. As a result, IHL's binding force becomes contingent, producing a widening gap between *de jure* universality and *de facto* selectivity²⁸.

For instance, the United States, despite playing an active role in drafting and promoting several humanitarian instruments, refused to accede to the First Additional Protocol of the Geneva Conventions (1977), arguing that its provisions would unduly restrict its military flexibility in dealing with non-state armed groups. Likewise, the Russian Federation has demonstrated a selective application of humanitarian law in its military interventions in Georgia (2008) and Ukraine (2022),

invoking pretexts of “national security” and “military necessity” to justify actions inconsistent with the humanitarian spirit of the law. These cases exemplify how strategic imperatives often override normative obligations, thereby undermining the universality of humanitarian principles²⁹.

Such selectivity extends to the institutional sphere, most notably within the United Nations Security Council (UNSC). Its decision-making process is largely shaped by the balance of power among its permanent members, and the repeated use of the veto power has often obstructed resolutions intended to address grave humanitarian crises—from Syria to Gaza—effectively emptying IHL of its moral and legal content. The law thus becomes susceptible to manipulation by those with the greatest influence, eroding both its credibility and its universalist aspiration³⁰.

Collectively, these dynamics reveal the structural paradox of international humanitarian law: while it embodies one of the most comprehensive codifications of humanity’s moral conscience, its practical authority remains hostage to the hierarchies of global power. The resulting asymmetry between law and politics raises pressing questions about the nature of international legitimacy, the selective enforcement of justice, and the future of humanitarian protection in a system where political will continues to dictate the reach of legal obligation³¹.

B. Double Standards in the Application of International Humanitarian Law

The existence of double standards represents one of the most striking manifestations of the influence of political will on the effectiveness of international humanitarian law (IHL). While certain violations are rigorously condemned and referred to international judicial mechanisms, others are frequently overlooked when major powers or their allies are implicated, illustrating the selective enforcement of humanitarian norms.

For example, the Darfur crisis (2005) was referred to the International Criminal Court (ICC) pursuant to United Nations Security Council Resolution 1593, signaling a commitment to accountability. By contrast, no equivalent measures were undertaken regarding documented violations by Israel in the Palestinian territories, despite confirmation of these breaches by UN fact-finding missions. This discrepancy underscores how enforcement is often conditioned by political considerations rather than by the universality of legal obligations³².

Similarly, military operations in Iraq and Afghanistan have vividly demonstrated this selectivity, where serious humanitarian violations were justified under the rhetoric of “counter-terrorism” and “global security.” Such practices significantly erode the principle of neutrality, a cornerstone of the humanitarian legal order, and highlight the tension between normative ideals and geopolitical imperatives. The British scholar David Forsythe has observed that “humanitarian law, despite its universal character, is applied to the extent permitted by major powers, not to the extent required by legal principles,” succinctly capturing the practical limitations imposed by power dynamics on the enforcement of IHL³³.

Taken together, these examples illustrate the structural fragility of humanitarian law in an international system dominated by major powers, revealing that legal universality and moral authority often succumb to the demands of strategic and political expediency.

Here, Algeria's consistent humanitarian stance at the United Nations on the situation of Palestine serves as a test of legal universality. Within this unbalanced system, Algeria stands out as a prominent example of commitment to standards and integrity. Rather than acquiescing to the selective application of international humanitarian law that favors major powers, Algeria has consistently placed the universality of humanitarian protection at the heart of its diplomatic agenda, particularly through its advocacy for the Palestinian cause in the UN General Assembly.

At the 79th session of the UNGA, Algeria reaffirmed that “the full membership of the State of Palestine in this Organization remains a crucial step towards the preservation of the two-State

solution.” Likewise, on 29 September 2025, Algeria’s Minister of Foreign Affairs warned that Palestine was facing “erasure” without stronger international intervention, emphasizing that this situation threatens regional stability and the credibility of humanitarian law itself³⁴.

Algeria’s diplomatic stance is anchored not only in political rhetoric but also in legal reasoning. The Algerian delegation has invoked the Fourth Geneva Convention of 1949 and Additional Protocol I of 1977, arguing that the protection of civilians under occupation constitutes a binding legal obligation, not a matter of political discretion. Furthermore, Article 28 of the 2020 Algerian Constitution enshrines respect for international law and solidarity among peoples, thereby institutionalizing this commitment at the constitutional level³⁵.

Through these actions, Algeria challenges the dominance of selective enforcement by demonstrating that humanitarian legality must prevail over political expediency. Its consistent advocacy for Palestine thus stands as a litmus test of the universality of international humanitarian law, affirming that legal norms retain their moral force only when applied impartially and without exception.

C. Mechanisms of Political Control over Humanitarian Institutions

The dominance of the political will of major powers is further evident in their influence over the functioning of international humanitarian institutions. The United Nations Security Council (UNSC), despite its extensive powers under the UN Charter, exercises these authorities largely in accordance with the interests of its permanent members, thereby rendering humanitarian responses subject more to political calculations than to legal or ethical imperatives³⁶.

Similarly, non-governmental organizations (NGOs) and the International Committee of the Red Cross (ICRC) may at times be affected by political conditions tied to funding or cooperation agreements imposed by major powers, which can constrain the independence of humanitarian action. The Swiss scholar Françoise Hampson has emphasized that “humanitarian independence cannot be absolute in an environment dominated by funding states, because the aid itself becomes part of foreign policy,” highlighting the structural vulnerability of humanitarian institutions to political influence³⁷.

Consequently, the relationship between humanitarian law and the political will of major powers generates a form of structural dependency, wherein compliance with legal norms becomes a relative and contingent phenomenon, determined more by the balance of power than by the intrinsic authority of the law. This dynamic underscores the broader paradox of international humanitarian law: its normative universality is persistently challenged by the practical realities of global politics, making the enforcement of its principles highly contingent upon the strategic interests of the most influential states³⁸.

Section Three: Toward a Balance Between the Supremacy of Legal Norms and the Demands of Political Will – A Reformist Approach

The persistent tension between law and politics in international relations raises a central and enduring question: is it possible to achieve a realistic balance between legal norms and political will? Historical and contemporary experiences demonstrate that international humanitarian law (IHL), despite its profound moral authority and normative aspiration, remains structurally fragile when confronted with considerations of power, security, and geopolitical dominance. In practice, the anarchic nature of the international system—characterized by the absence of a supranational enforcement authority—has often led to the subordination of humanitarian norms to the strategic imperatives of states³⁹.

This fragility underscores the inherent limits of normative authority in a world where the realpolitik of interests prevails over the universality of obligations. Legal prescriptions, however

meticulously codified, frequently yield to the calculus of military advantage, economic leverage, or diplomatic alignment. As the French jurist Georges Scelle once observed, “international law is the law of the weak, tolerated by the strong,” capturing the structural asymmetry that defines the relationship between law and power. This paradox exposes the gap between the binding nature of legal norms and the selective nature of their implementation, particularly in conflicts involving major powers with decisive political or military influence⁴⁰.

Accordingly, any genuine reform aimed at enhancing the effectiveness and credibility of the humanitarian system must be guided by a dual vision—one that integrates political realism, acknowledging the enduring influence of power dynamics, with legal legitimacy, ensuring that humanitarian norms retain both their binding force and ethical coherence. This integrated approach requires a pragmatic synthesis between the logic of power and the logic of value, wherein political authority is not negated but reoriented toward reinforcing humanitarian obligations rather than undermining them⁴¹.

Such a reconfiguration implies that legal reforms alone are insufficient. The sustainability of IHL depends equally on institutional mechanisms capable of mediating the exercise of political power, promoting autonomy and impartiality within humanitarian institutions, and cultivating a culture of compliance across political and military decision-making structures. When adherence to IHL becomes both a legal necessity and a political virtue, humanitarian law transcends its aspirational character and acquires operative force, even in asymmetrical conflicts involving major powers.

Algeria’s consistent stance within the United Nations, particularly in defending the Palestinian cause and advocating for the reform of global governance structures, provides a model of how political will can be harnessed to advance humanitarian legality. Through its diplomacy, Algeria embodies a form of principled realism, seeking to reconcile moral conviction with institutional pragmatism—a prerequisite for any genuine renewal of the international humanitarian order⁴².

A. Strengthening the Independence of the Humanitarian System from Political Instrumentalization

The first and most decisive step toward restoring equilibrium within the international humanitarian system involves insulating humanitarian institutions from direct political influence. Institutions entrusted with the implementation of international humanitarian law (IHL)—whether operating under the aegis of the United Nations or functioning as independent non-governmental organizations (NGOs)—must enjoy enhanced financial and operational autonomy to resist subordination to the directives of donors or to the strategic calculations of dominant states. The politicization of humanitarian action, when left unchecked, risks transforming humanitarian intervention into an instrument of foreign policy, thereby eroding both the neutrality and the credibility of IHL enforcement mechanisms.

The Swiss jurist Jean Pictet, one of the principal architects of the Geneva Conventions, long emphasized that humanitarian institutions can only function effectively if insulated from political and military pressure. In this spirit, Pictet proposed the creation of an independent international fund, administered under the supervision of the International Committee of the Red Cross (ICRC) and financed through neutral and voluntary contributions. Such a fund would ensure that humanitarian operations remain immune from geopolitical bargaining, safeguarding the integrity, impartiality, and continuity of humanitarian assistance and legal compliance efforts⁴³.

Furthermore, the consolidation of institutional oversight mechanisms constitutes a necessary complement to financial independence. The establishment of a permanent body for monitoring compliance with IHL, operating independently of the United Nations Security Council (UNSC),

would represent a fundamental innovation. By submitting regular and public reports to the UN General Assembly, this body would promote transparency, accountability, and institutional continuity in assessing violations, while reducing the impact of the veto power that frequently paralyzes humanitarian decision-making⁴⁴.

Such reforms would not only reinforce the normative authority and universality of IHL but also mitigate the structural dependency of its enforcement on the political will of major powers—a dependency that currently undermines the moral and legal credibility of the international humanitarian order. They would mark a transition from a system characterized by selective enforcement to one founded on institutional independence and principled universality, thereby bridging the enduring gap between the ideal of humanitarian protection and the reality of political domination.

The Algerian diplomatic position, notably within the United Nations and the African Union, has consistently advocated for such depoliticization of humanitarian action. Algeria's commitment to justice in the Palestinian question and to strengthening multilateral legitimacy underscores its role as a regional actor promoting an equitable and principled humanitarian order, free from hegemonic control⁴⁵.

B. Reforming Mechanisms of International Accountability

International accountability lies at the heart of any effective legal system. Yet, in the humanitarian domain, its application has remained limited and uneven, constrained by selectivity and double standards. To address this structural deficiency, it is essential to insulate international judicial mechanisms from the dominance of political decision-making, particularly concerning the jurisdiction and functioning of the International Criminal Court (ICC)⁴⁶.

Several international legal scholars have long advocated for a redefinition of the relationship between the UN Security Council (UNSC) and the ICC, proposing that the Court be granted full independence to initiate cases without requiring political referrals. Such reform would enhance the impartiality and universality of humanitarian justice, reducing the capacity of major powers to exert influence over prosecutorial discretion. Furthermore, the scope of ICC jurisdiction should be broadened to encompass non-international armed conflicts and transboundary violations, thereby reinforcing the comprehensiveness and universality of international humanitarian law (IHL)⁴⁷.

In this context, the Italian jurist Antonio Cassese has rightly emphasized that “humanitarian justice cannot be achieved as long as the political veto possesses the power to obstruct criminal justice,” underscoring the structural imbalance inherent in the current system. He further advocates for the adoption of a qualified voting system within the Security Council, to prevent the monopolization of humanitarian decision-making and to ensure that legal obligations are not subordinated to political expediency⁴⁸.

However, the reform of accountability mechanisms cannot be isolated from the broader question of institutional reform within the United Nations system itself. A meaningful and equitable international order requires a comprehensive review of the UN Charter, particularly in relation to the composition and functioning of the Security Council. The persistence of permanent membership limited to five states, reflecting the geopolitical realities of 1945, no longer corresponds to the diversified and multipolar structure of the contemporary international community⁴⁹.

Hence, it is both timely and necessary to revisit the distribution of permanent seats in a manner that reflects regional and continental balance. Under this logic, Africa, Asia, and Latin America should enjoy greater representational equity, enabling the inclusion of key regional powers that play pivotal roles in maintaining peace and security within their respective spheres. In this regard, Algeria and South Africa stand out as natural candidates for permanent or semi-permanent

membership, given their active diplomatic engagement, principled advocacy for the rule of law, and consistent defense of humanitarian causes, particularly the Palestinian question⁵⁰.

Algeria, in particular, has distinguished itself by its steadfast defense of the principles of justice and decolonization, and its unwavering support for the Palestinian people in international fora, especially within the United Nations. Its diplomatic positions have consistently reflected a commitment to the universality of international humanitarian law and to the protection of civilian populations under occupation, standing in sharp contrast to the selective application of legal norms by major powers⁵¹.

The Algerian example demonstrates that normative commitment and principled diplomacy can serve as levers for reforming the international system, bridging the gap between legality and legitimacy⁵².

Ultimately, reforming the UN Charter and democratizing the Security Council are indispensable to restoring credibility and effectiveness to the international humanitarian order. Only through a system that balances legal universality with political inclusiveness can the international community ensure that humanitarian justice is not the privilege of the powerful but the right of all nations and peoples⁵³.

C. Consolidating a Culture of Humanitarian Compliance in National and Diplomatic Policies

Achieving the desired balance between legal norms and political realities requires the internalization of humanitarian law values at the level of political and institutional consciousness, through their systematic integration into national policies, military training programs, and legal and diplomatic education. The deeper the humanitarian legal culture within state institutions, the more constrained the potential for political instrumentalization of humanitarian norms, reinforcing compliance as a matter of principle rather than convenience⁵⁴.

Embedding IHL principles in state institutions ensures that normative commitments influence both strategic and operational decisions, thereby reducing the risk that humanitarian obligations are subordinated to transient political interests⁵⁵.

Multilateral diplomacy plays a pivotal role in consolidating this culture, notably by supporting regional initiatives such as the Permanent Committee on International Humanitarian Law of the African Union and the Arab Network on International Humanitarian Law. These initiatives cultivate a collective regional commitment, mitigating the monopolization of humanitarian decision-making by major powers, enhancing normative cohesion, and providing regional accountability mechanisms that complement the global legal framework⁵⁶.

In this context, Algeria provides a practical example of a state actively working to align political action with normative humanitarian principles. Algeria has historically demonstrated its commitment to the principles of international law and humanitarian justice by consistently advocating for the rights of the Palestinian people within the United Nations, condemning violations of international law, and calling for accountability against Israel's actions in the occupied territories. Through its diplomatic activism, Algeria exemplifies how states can leverage political will to support the enforcement of humanitarian norms, rather than allowing such norms to be subordinated to strategic interests.

Importantly, building this balance does not imply the complete neutralization of politics, an unrealistic objective in a system structured around strategic interests. Rather, it entails the rationalization of political will, channeling it to serve humanitarian principles, so that compliance with international humanitarian law (IHL) becomes not merely a legal obligation, but also an integral component of international political legitimacy. The Algerian example illustrates that

political will, when aligned with legal and ethical principles, can reinforce the universality and authority of IHL, support vulnerable populations, and reduce the risk of selective enforcement.

The case of Algeria demonstrates that the effectiveness of IHL is maximized when political action is informed by a strong normative commitment, combining legal knowledge, institutional capacity, and principled diplomacy. By advocating for Palestinian rights at the United Nations, Algeria helps to narrow the gap between the law's aspirational universality and its practical implementation, showing that even in a world dominated by power politics, states can assert normative leadership that strengthens humanitarian law.

Conclusion

The foregoing analysis underscores that the effectiveness of international humanitarian law (IHL) can only be realized by liberating it from subordination to political will and by establishing an independent institutional framework capable of enforcing its rules equitably and consistently. The narrower the gap between legal principles and political realities, the closer IHL comes to fulfilling its original mission: protecting human beings from the brutality of war and the tyranny of power.

A detailed examination of the relationship between IHL and the political will of major powers reveals that this gap between principle and practice remains substantial, and that the supremacy of legal norms continues to be constrained by the realities of power that govern the contemporary international system. Although IHL constitutes one of the clearest expressions of humanity's moral conscience, its selective application often transforms it into an instrument for justifying policies rather than regulating them, thereby undermining its normative authority.

This study demonstrates that legal effectiveness cannot be disentangled from political will, as major powers exert a direct influence over the scope and enforcement of humanitarian law—whether through control over international institutions or the manipulation of accountability and judicial mechanisms. Accordingly, any serious reform of the international humanitarian system must adopt a dual approach: a legal dimension that ensures the binding nature and universality of norms, and a political dimension that secures the necessary commitment and will for their effective implementation. Only through this integrated strategy can IHL reclaim its normative authority, operational efficacy, and moral legitimacy in the international arena.

Key Findings:

1. The political will of major powers constitutes the primary determinant of the extent to which international humanitarian law is respected in armed conflicts.
2. The absence of independent enforcement mechanisms renders the application of humanitarian rules dependent on the interests of major powers.
3. The double standards in Security Council decisions have undermined the confidence of smaller states and humanitarian organizations in the universality of humanitarian law.
4. The politicization of humanitarian aid has eroded the principle of neutrality, which is one of the cornerstones of the international humanitarian system.

Recommendations:

- Strengthen the financial and administrative independence of humanitarian institutions to ensure their neutrality and effectiveness, free from political influence.
- Reform the United Nations Security Council system to limit the use of the veto in issues of a humanitarian nature.
- Expand the jurisdiction of the International Criminal Court to include non-international conflicts and transboundary violations without the need for political referrals.

Ultimately, the future of international humanitarian law (IHL) hinges on the capacity of the international community to transcend the logic of power and embrace the logic of normative value, transforming political will from an instrument of domination into a tool for the protection of human beings.

This underscores the fundamental principle that the legitimacy of IHL depends not only on legal codification but also on the political commitment of states to uphold its norms impartially.

Wherever legal norms are subordinated to political interests, justice is compromised, and the humanitarian purpose of the law is systematically undermined. Conversely, when the independence of legal norms is restored, humanity itself regains its substantive meaning, reaffirming the moral and legal imperative of IHL as a safeguard against the excesses of war and the arbitrariness of power.

The restoration of IHL's authority requires a dual strategy: reinforcing institutional independence to ensure impartial enforcement and fostering a culture of compliance in which states internalize humanitarian obligations as integral to both legal duty and political legitimacy. This approach bridges the gap between normative ideals and political realities, enhancing the operational and moral effectiveness of international humanitarian law.

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