

DOI 10.36074/logos-06.02.2026.019

THE ROLE AND PRINCIPLES OF INTERNATIONAL HUMANITARIAN LAW IN THE SYSTEM OF INTERNATIONAL LAW

Sevinj Alakbarova¹

1. Associate professor

National Defense University of Azerbaijan, Baku, AZERBAIJAN

ORCID ID: 0009-0008-0446-7958

Abstract. *International humanitarian law (IHL) is a branch of international law that regulates relations between the members of the international community—namely, states. All states are obligated to fulfill the requirements and provisions of international law. Formerly known as the "law of war," international humanitarian law is a crucial section of law applied and operative during armed conflicts and wars.*

Considering the ongoing armed conflicts and clashes in various geographical regions today, which continue to result in significant loss of life, the attitude of states toward the requirements and provisions of IHL is undoubtedly of great importance for the establishment of global peace and security.

To this end, this article primarily discusses the concept, content, fundamental norms, and sources of international humanitarian law applied during armed conflicts. Simultaneously, the article provides an overview of the history of humanitarian law, the concept of armed conflict, the obligations of states during wartime, international criminal law and human rights, and analyzes issues regarding international and non-international armed conflicts and wars.

Regardless of the cause, all wars and armed conflicts unequivocally lead to severe material losses, human deaths, and immeasurable suffering. In the modern era, international humanitarian law seeks to mitigate the effects of war by limiting the means and methods of conducting military operations, which serves the overall protection and regulation of human rights.

Introduction

International humanitarian law is an integral part of the system established in the Charter of the United Nations to ensure global peace and security. From this perspective, the international community and world states should not remain

indifferent to the requirements of IHL. As a component of international law, its primary duty is the preservation of peace and security among the peoples of the world, as well as the promotion of humanity. Furthermore, IHL serves as a fundamental bridge and foundation for creating peace and mutual trust between parties after armed conflicts and wars have concluded. However, it should be noted that IHL does not determine whether a state should use force against an opposing party. It does not specifically prohibit war or the use of force by a state; rather, it enters into force the moment a war begins. It strives to protect peace, security, and human rights by referencing the requirements of the UN Charter, which is considered the "international constitution" of the global community.

International humanitarian law also includes many provisions aimed at protecting the environment during war. The 1949 Geneva Conventions and their 1977 Additional Protocols contain norms prohibiting the unjustified destruction of the natural environment. Additional Protocol I explicitly prohibits the use of methods or means of warfare intended to cause widespread, long-term, and severe damage to the natural environment [1].

It is complex to state precisely when and where the concepts and norms of international humanitarian law were first established. However, looking at the rules of war throughout history - especially agreements regarding the fate of prisoners - traces of modern humanitarian law can be found in various cultures, religious texts, and monuments even before the emergence of modern states. The formation of today's general and written IHL is primarily associated with two individuals: Henri Dunant and Francis Lieber. These two figures contributed significantly to the general concept and content of modern IHL. Both Dunant and Lieber based their ideas on the concept put forward by Jean-Jacques Rousseau in his 1762 treatise *The Social Contract*: "War is not a relationship between man and man, but a relationship between State and State, in which individuals are enemies only by accident, not as men, nor even as citizens, but as soldiers." Rousseau continued this logic, concluding that soldiers may only be fought as long as they themselves are fighting; as soon as they lay down their arms, they return to being ordinary men, and their lives must be spared [2]. Thus, it can be said that the ideological foundation for the revival of international humanitarian law was laid in the 19th century.

The prominent French thinker Montesquieu noted that international law is naturally based on the principle that states should do as much good as possible in peace and as little harm as possible in war [3]. International law is a system of legal norms that differs from and exists independently of the national legal systems of individual states. It emerged specifically to bring the various relations between states into a legal framework [4, p. 5]. International law norms cover almost every

ABSCHNITT 8.
RECHT UND VÖLKERRECHT

aspect of the interstate relations system. Compared to international law in general, international humanitarian law is a sub-sector with a narrower scope. While international law regulates relations in all fields, IHL applies only to armed conflicts and aims to protect individual rights during these conflicts. According to Swiss jurist Jean Pictet, IHL ensures the protection of the individual based on the principle of concern for humanity [5, p. 5]. Incidentally, the term "international humanitarian law" was introduced into the international legal lexicon by Jean Pictet.

The Development and Scope of Application of International Humanitarian Law

In the last quarter of the 20th century, the international community faced sharp changes in the course of armed struggle. New forms and methods of both internal and international armed conflicts became widespread. Under conditions of rapid armament and constant modernization of weapons, the methods and means of war become more complex. Often, these processes are not managed by international legal norms, making the application of the prohibitive and restrictive provisions of IHL difficult [6, p. 9]. This leads to serious violations of IHL norms. Furthermore, in "new generation" conflicts, the behavior of warring parties often does not align with IHL norms, revealing certain legal gaps. Nevertheless, new treaties in the field of IHL reflect a modern tendency toward applying the same rules and principles to both international and non-international conflicts [7, pp. 15-17].

Although we consider IHL-also known as the law of armed conflict or the law of war-a product of the 19th century, its principles and norms are much older. International lawyers sometimes find these rules in the war practices of various cultures. In other instances, they rely on the ideas of Henri Dunant, who witnessed the Battle of Solferino and aimed to create the International Committee of the Red Cross (ICRC) and promote the traditions of the Geneva Conventions [8]. Both approaches help in understanding the history, essence, and purpose of IHL.

Additionally, the concept of "international humanitarian law" finds expression in the existing concept of *jus in bello* - the laws governing the conduct of war. The ICRC describes IHL as follows [9, p. 124]:

"International humanitarian law is a part of the international law norms regulating relations between states. Its purpose is the protection of persons not participating or no longer participating in hostilities-the sick and wounded, prisoners, and civilians—and the determination of the rights and duties of the parties to the conflict during the conduct of hostilities" [9, p. 126].

This explanation by the ICRC is exceptional, and definitions provided by other jurists are very similar [10, p. 14]. Broadly speaking, IHL is a branch of public international law that seeks to mitigate the conduct of armed conflict and reduce

the suffering it causes [11, p. 67]. Renowned international lawyer M. Cherif Bassiouni noted that these approaches are so intertwined or repetitive that it is difficult to state a single concrete view; they can be imagined as two sides of the same coin [12, p. 120].

Summarizing these points, the term "international humanitarian law" can be used in accordance with all rules of international law pertaining to armed conflict—whether international legal customs or the Hague and Geneva Conventions [13, p. 42].

IHL is designed to create a balance between military necessity and humanitarian concerns arising during armed conflicts. Naturally, it does not prohibit war; it simply limits its destructive effects, alleviates human suffering, and specifically protects individual rights. It protects those not directly or actively participating in hostilities and places limits on the means and methods of warfare. IHL is primarily composed of public international law consisting of treaties, international customary law, and general principles of law.

It is important to emphasize that IHL is closely linked to international human rights law (IHRL) and international criminal law (ICL). These fields complement each other. Although applied in different circumstances, all three seek to protect human dignity. However, there is a serious distinction: IHRL applies at all times and to all persons under a state's jurisdiction, while IHL, as an independent field, does not always define universal rights applicable to every individual at all times in the same way IHRL does. Nonetheless, they interact. On December 19, 1968, the UN General Assembly adopted Resolution 2444 (XXIII) on "Respect for Human Rights in Armed Conflicts" [11, p. 70]. This topic continued to be discussed at the 24th, 25th, and 26th sessions of the UN General Assembly.

Regarding the connection with International Criminal Law, serious violations of IHL constitute international crimes, leading to the formation of war crimes. The statutes of international criminal tribunals that prosecute war criminals incorporate IHL norms and the provisions of the Geneva Conventions. This serves as an example of the interaction between IHL and ICL.

The specificity of the Geneva Conventions, which stipulate IHL, is that each applies to a different category of protected persons and establishes a minimum standard of treatment for each category. These norms apply to all international and non-international armed conflicts regardless of the situation. Thus, IHL does not prohibit war; it recognizes the right of states to go to war but regulates the methods and means, as well as the protection of civilians, sick and wounded combatants, and prisoners of war [12, p. 267]. It opposes indiscriminate violence and demands humane treatment of civilians.

The application of IHL rules is summarized as follows [14, p. 145]:

ABSCHNITT 8.
RECHT UND VÖLKERRECHT

Persons *hors de combat* (out of the fight) and those not participating in hostilities have the right to respect for their lives and physical/mental integrity. They must be protected and treated humanely without discrimination.

It is forbidden to kill or wound an enemy who surrenders or is no longer in the fight.

The wounded and sick shall be collected and cared for by the party to the conflict which has them in its power. This protection covers medical personnel, facilities, and transport. The emblems of the Red Cross, Red Crescent, and Red Crystal must be respected.

Captured combatants and civilians under the authority of an adverse party are entitled to respect for their lives, dignity, and personal rights. They must be protected from all acts of violence and reprisals. They have the right to correspond with their families and receive relief.

Everyone is entitled to benefit from fundamental judicial guarantees. No one shall be held responsible for an act they did not commit. No one shall be subjected to physical or mental torture or cruel treatment.

Parties to a conflict and their armed forces do not have an unlimited choice of methods and means of warfare. It is forbidden to use weapons or methods of war that cause unnecessary suffering or excessive injury.

Parties must always distinguish between the civilian population and combatants. Civilians shall not be the object of attack.

These rules apply not only to international conflicts but also to non-international armed conflicts. IHL is applied in three situations:

- International armed conflicts involving at least two countries.
- Situations where all or part of a country's territory is occupied by a foreign state.
- Armed conflicts within a country between the government and organized armed groups or between such groups.

The scientific novelty of this topic lies in the comprehensive analysis of the factors affecting the interaction of IHL with other fields of international law and the realization that serious violations of these norms constitute the essence of war crimes.

Conclusion

Considering the origins, concepts, and sources of international humanitarian law, as well as its modern relevance, it can be concluded that its primary goal and duty is to protect human life and dignity in the extraordinary circumstances of war. The main criterion of IHL is to protect the individual from violence; thus, it is a vital branch of international law protecting human rights. It must be noted that IHL only takes effect during war and armed conflict. By doing so, it mitigates the severe

consequences and human suffering of both international and non-international conflicts. IHL is regulated within the norms of international law and is directed toward safeguarding human rights during wartime.

REFERENCES:

- [1] Alakbarova, S. (2025). Legal responsibility of military personnel for environmental offenses in armed conflicts. VI International Scientific and Practical Conference «THEORETICAL AND PRACTICAL ASPECTS OF MODERN SCIENTIFIC RESEARCH», 32–39. <https://doi.org/10.36074/logos-01.08.2025.004>.
- [2] Hans-Peter Gasser, *International Humanitarian Law*. Henry Dunant Institute-1993, 10 p.
- [3] Hüseynov, L.H. *Beynəlxalq hüquq / L.H.Hüseynov*. – Bakı: Hüquq Ədəbiyyatı, – 2000.
- [4] Jinks, D. *Applying International Humanitarian Law in Judicial and Quasi-Judicial Bodies.* / D.Jinks, J.N.Maogoto, S.Solomon – The Hague: T.M.C. Asser Press, – 2014. – 9 p.
- [5] Конвенция об открытии военных действий (Гаага, 18 октября 1907 года) *Международное право // Ведение военных действий: Сборник Гаагских конвенций и иных международных документов. 3-е изд., испр., – Москва: МККК, – 2001. – 15-17 с.*
- [6] Geib, R. *International Committee of the Red Cross, War and International Humanitarian Law.* / R.Geib, A.Zimmermann – Cambridge University Press, 2010.
- [7] Раджабов, С.А. *Имплантиция норм международного гуманитарного права в Республике Таджикистан: проблемы теории и практики, доктора юридических наук: [Электронный ресурс] / – Москва, 2008. URL: <https://www.dissercat.com/content/implementatsiya-norm-mezhdunarodnogo-gumanitarnogo-prava-v-respublike-tadzhikistan-problemy->*
- [8] Bassiouni, M.Ch. *divides these sectors differently, as conventional law (Geneva) and customary law (Hague)* / M.Ch.Bassiouni. – Publisher Intersentia, – 2010. – 7 p.
- [9] Bassiouni, M.Ch. *divides these sectors differently, as conventional law (Geneva) and customary law (Hague)* / M.Ch.Bassiouni. – Publisher Brill Nijhoff, – 2013. – 18 p.
- [10] Greenwood, *Historical Development and Legal Basis in* D. Fleck and M. Bothe (eds), *The Handbook of International Humanitarian Law*, – 2008.
- [11] *Respect for Human Rights in Armed Conflicts, Report of the Secretary-General, Agenda Item 61, UN Doc. A/7720*, – November 20, 1969.
- [12] *Basic Facts about the United Nations* / – New York: United Nations, – 1998.
- [13] *War and international humanitarian law: [Electronic resource]* / – October 29, 2010. URL: <http://www.icrc.org/eng/war-and-law/overview-war-and-law.htm>
- [14] *Conventions (hereafter API) and rules of customary IHL as stated in* J.-M. Henckaerts and L. Doswald-Beck. – *Customary International Humanitarian Law: Cambridge University Press, – vol. 1. – 2005.*