THE PROVISIONS OF OBLIGATION IN INTERNATIONAL HUMANITARIAN LAW: BETWEEN REALITY AND ASPIRATION

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Abstract:

International humanitarian law serves as a cornerstone for the protection of human rights during armed conflicts, both international and non-international. However, the effectiveness of this legal framework hinges on states' adherence to its provisions. Scholars hold differing views on the binding nature of international humanitarian law, with some arguing that it supersedes domestic law while others consider it to be of equal status. Ensuring compliance with international humanitarian law requires states to undertake various measures, including domestication and harmonization, as well as specific responses to violations, such as severing diplomatic relations or expelling diplomats. Moreover, international organizations, including non-governmental organizations, play a pivotal role in preventing violations of international humanitarian law and promoting state compliance through diverse strategies.

Keywords: *international humanitarian law, international obligation, non-governmental organizations, violations of international humanitarian law, international armed conflict, non-international armed conflict.*

INTRODUCTION:

International humanitarian law serves as a protector of the legal rights of vulnerable groups during any conflict, be it international or non-international. This body of law did not arise in a vacuum but is rather the product of the ravages of wars that disregarded the most basic principles of combat and respect for human rights. Consequently, international humanitarian law advocates for the rejection of war between peoples, for living in peace, and for resorting to peaceful resolution of disputes rather than resorting to the law of the jungle. Even if recourse to war becomes necessary, adherence to the provisions of international humanitarian law is imperative. This law imposes restrictions and prohibitions on the treatment of individuals and the use of means of combat, preventing belligerents from inflicting harm on their adversaries that is disproportionate to the objectives of the war, which aim to destroy or weaken the enemy's military capacity. Parties are legally and morally obligated to observe these principles in conducting hostilities.

However, when studying international humanitarian law and tracing its historical roots, we find that it is a treaty-based law, the product of treaties and agreements established by the peoples of the world to limit violent combat, which had previously disregarded even the most basic laws of war. The international community, including international organizations, especially non-governmental organizations, has been involved in the creation and development of international humanitarian law to avoid state bias. The International Committee of the Red Cross (ICRC) is one of the most prominent organizations active in the field of international humanitarian law. It has prepared and drafted the four Geneva Conventions and their 1979 Protocols and has been granted an international mandate to oversee and monitor respect for international humanitarian law. It has also been granted observer status at the United Nations. Among its most prominent tasks is encouraging states to ratify international humanitarian law treaties and disseminating them among military and educational circles.

A large number of states have ratified the Geneva Conventions and their Protocols, thanks to the tireless efforts of the ICRC. However, the question remains:

To what extent do states comply with the provisions of international humanitarian law? And what measures are taken to ensure such compliance?

To address this issue, we propose the following framework:

Chapter One: International Humanitarian Law and its Binding Nature

Section One: Defining International Humanitarian Law

Numerous definitions have been provided in publications by the International Committee of the Red Cross. One such definition states that "international humanitarian law applicable in armed conflict is a body of international rules, established by treaty or custom, specifically designed to solve humanitarian problems directly arising from armed conflicts, both international and non-international. For humanitarian reasons, it limits the rights of parties to a conflict to choose the methods or means of combat and protects persons and property affected by the conflict[1]."

The term "international humanitarian law" is a relatively recent addition to the lexicon of international law. It was first used by the ICRC in documents presented at the first session of the governmental experts conference in 1971. The term refers to "a set of rules and principles that impose limits on the use of force in armed conflict[2]."

Dr. Nizar Al-Ankabi defines it as "that important part of public international law applicable in armed conflicts, comprising a set of customary and treaty-based principles and rules governing the conduct of belligerents engaged in an armed conflict in the exercise of their rights and duties recognized in these rules and relating to the conduct of hostilities, which limit their right to choose the means and methods of warfare. It aims, in particular and for humanitarian reasons, to protect victims of international and non-international armed conflicts, namely combatants hors de combat and those captured in battle, as well as non-combatants, or civilians not directly participating in hostilities, who may, along with property unrelated to the conflict, become the object of attack or subjected to inhumane treatment as a result of hostilities[3]."

Scholars have differed in their definitions of international humanitarian law. Some provide a broad definition, while others offer a narrow one. According to the broad definition, it is "a body of international legal rules, written or customary, that guarantees the respect and well-being of the individual." According to the narrow definition, it is "a body of international rules derived from treaties or custom aimed specifically at resolving humanitarian problems arising directly from international and non-international armed conflicts, which, for humanitarian reasons, limit the rights of parties to a conflict to use the methods and means of warfare they prefer, or protect persons and property that have been or may be harmed by armed conflict[4]."

Dr. Amer Al-Zamali defines international humanitarian law as "a branch of public international law whose customary and written rules aim to protect persons affected by armed conflict from the suffering caused by such conflict, as well as to protect property directly related to military operations[5]."

A comprehensive definition of international humanitarian law is that it is a part of public international law that governs relations between states and aims to protect persons not participating or who have ceased to participate in hostilities, such as the sick, wounded, prisoners of war, and civilians, and to define the rights and obligations of parties to a conflict in the conduct of hostilities[6].

Subsection One: Characteristics of International Humanitarian Law

First: International humanitarian law is a branch of public international law: However, it is a distinct branch, as its discourse is directed towards states for the benefit of individuals, whereas the traditional theoretical relationship of public international law was that it regulated relations

between states and defined the relations and obligations of states towards each other. International humanitarian law is a branch of public international law, especially after the advent of modern international law, which directs its discourse towards states for the benefit of individuals, replacing the traditional international law that regulated relations between states. Therefore, the relationship between international humanitarian law and public international law is that of a branch to its root[7].

Secondly, International Humanitarian Law is a Binding Law: Undoubtedly, the rules of this law do not differ from those of public international law and other branches of international law in terms of binding nature. The rules of this law are characterized, as is well known, by all the characteristics of legal rules in general. The rules of this law are general, abstract, and binding, and are accompanied by sanctions for their violation or non-compliance. As previously mentioned, the assertion by some jurists that the rules of this law, like those of public international law, are merely moral and not legally binding, because this law is a branch of public international law and that the branch follows the root, is no longer acceptable in the present time due to the increasing international interest in this branch of international law, whose rules aim to limit armed conflicts and protect their victims[8].

Thirdly, International Humanitarian Law encompasses more than just (Hague) or (Geneva) law and its additional protocols. It also includes all other international customary and treaty-based rules derived from humanitarian principles and the general conscience[9].

Fourthly, International Humanitarian Law applies only in times of armed conflict: International humanitarian law is applied during the occurrence or outbreak of armed conflicts, whether international or non-international. Previously known as the law of war, its temporal scope is limited to periods of armed conflict. This law aims to achieve two main objectives:

a) Limiting the rights of parties to a conflict in choosing the methods and means of combat.

b) Protecting persons and property during armed conflicts. Thus, in this capacity, this law differs from international human rights law, whose provisions generally apply in times of peace rather than war, although some of its provisions may extend to times of war. This is confirmed by Article 2 common to the four Geneva Conventions, which states that they shall be applied in case of war declared or any other armed conflict which may arise between two or more of the High Contracting Parties, even if one of them does not recognize a state of war. These Conventions shall also be applied to all cases of partial or total occupation of the territory of a High Contracting Party, even if the occupation meets with no armed resistance. It should be noted that violations of the provisions of this law and breaches of its rules entail sanctions and responsibility, especially in cases where parties to a conflict commit grave breaches of the rules of this law, such as targeting civilians or civilian objects or using internationally prohibited weapons. In such cases, the states concerned and the parties to the Geneva Conventions must prosecute them or extradite them to one of the contracting states for prosecution. The general rule established by the Geneva Conventions since long ago is the principle of prosecution or extradition[10].

Fifthly, the rules of international humanitarian law are peremptory norms that are general and abstract: This characteristic stems from the fact that their source is customary international law and binding treaties. Given that they regulate matters related to humanity as a whole, they do not fall within the framework of reciprocal relations between states that are subject to relativity. This is confirmed by the Vienna Convention on the Law of Treaties of 1969, which defines a peremptory norm in Article 35 as "a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character." It further stipulates in Article 60 that "provisions prohibiting reprisals against protected persons as embodied in the Hague Conventions and other treaties of a humanitarian character, constitute in themselves peremptory norms of general international law[11]."

Based on Article 35 of the Vienna Convention, which affirms the binding nature of the rules of international law except in cases of replacement by another rule, a scholarly debate has arisen regarding the binding nature of the rules of international humanitarian law. This issue will be addressed in the second section, which examines the opposing and supporting views.

Section Two: Scholarly Opinions on the Binding Nature of International Humanitarian Law

International treaties and conventions constitute the primary sources of international humanitarian law. However, the question arises as to the extent of state compliance with these treaties and whether they possess a binding nature among states. This section examines various scholarly opinions on this matter.

Subsection One: Jurisprudential Perspectives

First Opinion: This view holds that international treaties and global declarations of rights possess a force that surpasses legislative texts. The jurist Duguit supports this view, arguing that the legal system comprises three types of laws, ranked in order of strength: declarations of rights, constitutional laws, and ordinary laws. Duguit contends that declarations of rights precede constitutional laws, implying that constitutional lawmakers are subject to declarations of human rights, and ordinary lawmakers are subject to constitutional lawmakers. These rights, enshrined in declarations, demand not only respect but also compliance, not only from ordinary lawmakers but also from constitutional lawmakers.

Second Opinion: This view posits that when legislation is enacted for a specific freedom or right, it is formulated within a regulatory framework. However, such legislation can be amended or even repealed at any time by the legislative authority. This view aligns with the English legal tradition, which considers declarations of rights as ordinary legislation without any legal force beyond that of other legislation enacted by the legislative authority.

Third Opinion: Proponents of this view argue that the rights and freedoms contained in declarations of rights often encompass broad aspirations that may be difficult to achieve. While these declarations may not be devoid of scientific value, judicial experiences, as they claim, have shown that numerous judgments have relied on declarations of rights, and sometimes even established rights not explicitly mentioned in these declarations. This suggests that these rights are deeply rooted in the collective conscience of peoples, implying that the preambles of constitutions possess binding legal value for administrations.

Fourth Opinion: Adherents of this view believe that the rights enshrined in international declarations, treaties, and covenants possess a value equivalent to legal texts. They often precede the drafting of constitutions, thereby surpassing the authority of ordinary laws and obliging ordinary lawmakers to adhere to them.

Furthermore, proponents of this view argue that declarations of rights constitute a set of provisions embedded within constitutions, prohibiting ordinary lawmakers from enacting rules that contradict the declared individual rights. This guarantee of individual rights is manifested by conferring constitutional status upon these rights and endowing them with safeguards that elevate the Constitution above ordinary laws12.

The jurisprudential opinions expressed here represent a spectrum of legal interpretations. Constitutions, in turn, function as a state's foundational legal document, articulating its core values and commitments. The Algerian Constitution exemplifies this principle by granting primacy to international conventions and treaties. This is evident in the preamble, which states: 'The Algerian people, affirming their adherence to the human rights enshrined in the Universal Declaration of Human Rights of 1948 and the international conventions to which Algeria is a party[13].

These scholarly opinions reflect diverse perspectives on the binding nature of international humanitarian law. Constitutions serve as a barometer of the state's commitment to the application

and respect of international treaties. The Algerian Constitution, for instance, recognizes the supremacy of international treaties and conventions over ordinary law, as evidenced by its preamble. This recognition is further exemplified by Presidential Decree 08/163, which established the National Committee for International Humanitarian Law, tasked with harmonizing national legislation with international treaties ratified by Algeria and promoting the dissemination of international humanitarian law within the country.

The Geneva Conventions oblige signatory states to amend their legislation to punish perpetrators of grave breaches, which constitute serious crimes. However, the level of response may vary from one state to another. Some states may merely include a general provision considering violations of international law as crimes, while others may amend their penal codes to align with their constitutions, provided that the constitution permits punishment only if there is an explicit provision prescribing punishment, following the principle of legality of crimes and punishments[14].

Subsection Two: The Principle of Universal Jurisdiction

The accession of states to international treaties with universal jurisdiction mandates that these states fulfill their obligations under these treaties. This enables national criminal courts to exercise their universal jurisdiction, allowing them to prosecute perpetrators of international crimes. Consequently, states are obliged to take the necessary measures to broaden the jurisdiction of their domestic courts by adopting universal jurisdiction.

To understand the concept of universal jurisdiction, we can refer to the definition provided by Professor Qida Najib Hamad: Given the brutality and severity of certain crimes, which are condemned by the entire international community, their perpetrators become enemies of all peoples. The harm inflicted by these crimes on international interests necessitates that all states prosecute the criminals, regardless of their nationality or the location of the crime. This concept forms the cornerstone of the principle of universal jurisdiction, which empowers domestic courts to initiate investigations and prosecutions related to crimes committed anywhere in the world, regardless of the nationality of the perpetrator or victim, even in the absence of any link between the crime and the state in which the court is situated. The legal justification for arresting the criminal and taking legal action against them is the severity of the crime itself, rather than territorial or personal jurisdiction as is customary[15].

Universal jurisdiction deviates from the customary rules governing the attribution of jurisdiction in international law, which are based on four criteria:

Territorial Jurisdiction: The state has jurisdiction over crimes committed within its territory, a principle known as the territoriality of laws.

Personal Jurisdiction: The state has jurisdiction over crimes committed by its nationals, based on the nationality of the perpetrator.

Passive Personality Jurisdiction: The state has jurisdiction over crimes committed against its nationals, regardless of where the crime took place.

Real or Protective Jurisdiction: This refers to a state's jurisdiction over matters essential to the nation's interests.

It is noteworthy that when applying the principle of universal jurisdiction, states often adopt one of two approaches:

- ✓ **Narrow Concept:** This concept requires a minimum link between the state and the perpetrator, such as the perpetrator's presence within the territory of the state that will prosecute them.
- ✓ **Broad Concept:** This concept grants a state the authority to prosecute an accused or a person subject to investigation and pursuit, even in their absence.

In practice, most states adopt the narrow concept of universal jurisdiction, although the broad concept offers a more effective means of achieving justice and preventing impunity.

For the principle of universal jurisdiction to be applied, several conditions must be met. Most importantly, there must be a legal framework that clearly defines universal jurisdiction or at least explicitly refers to it in domestic laws. Additionally, the crime subject to universal jurisdiction must be precisely defined, with its elements clearly articulated to avoid ambiguity. Furthermore, there must be domestic mechanisms in place to implement the principle, enabling national judicial bodies to prosecute offenders[16].

Chapter Two: Measures Taken to Uphold International Humanitarian Law

To endow international humanitarian law with legal force and ensure compliance, states must take concrete measures at the domestic level. These measures should have international repercussions and complement the efforts of organizations active in the field of international humanitarian law, such as the International Committee of the Red Cross. Prominent among these measures is accession to international treaties enshrining international humanitarian law, harmonizing these treaties with domestic legislation, disseminating the rules of international humanitarian law, particularly among military personnel, universities, and schools, and extending support to international humanitarian organizations. However, the failure of some states to adhere to these measures hinders the implementation and application of international humanitarian law.

Section One: Measures Taken to Disseminate the Rules of International Humanitarian Law

Subsection One: Dissemination of International Humanitarian Law

Ignorance of the law is a major obstacle to its respect. For this reason, the International Committee of the Red Cross undertakes significant efforts to disseminate international humanitarian law on a broad scale. It takes various measures to achieve this goal, such as encouraging the inclusion of international humanitarian law in educational curricula, military training programs, and university courses. The ICRC also reminds states of their obligation to take all necessary steps to ensure the effective implementation of international humanitarian law at the domestic level. It primarily does so through its advisory services on international humanitarian law, providing technical guidance to states and assisting their authorities in adopting and implementing laws and regulations at the domestic level[17].

In 1970, the ICRC contacted UNESCO, the Council of Europe, the United Nations, American states, and the League of Arab States to cooperate in disseminating international humanitarian law[18].

The role of the ICRC in this area consists of disseminating international humanitarian law across all cultures. This is one of its primary tasks, stemming from the mandate conferred upon it by the international community under the four Geneva Conventions of 1949 and the Additional Protocols of 1977. The ICRC continuously strives to achieve this goal in all languages used in conflict zones, aided by its expanding publications and the vast number of lawyers, writers, and researchers working within its ranks in all regions. This is to ensure that knowledge of the rights and obligations of combatants towards their adversaries in the event of conflict is disseminated. As ensuring respect for individuals during armed conflict is a top priority, the dissemination of international humanitarian law is paramount. The success of this endeavor hinges on the effectiveness of conveying humanitarian messages to all individuals who may be involved in armed conflict or combat operations. This is achieved through the contributions of various entities, primarily states themselves, media outlets, national Red Crescent and Red Cross societies, and national committees overseeing the implementation of the law[19].

Dissemination of International Humanitarian Law among Armed Forces: The dissemination of international humanitarian law among armed forces involves delivering lectures, educating military personnel, and providing them with documents and publications on the respect and application of international humanitarian law during armed conflicts.

Since the second half of the 19th century, particularly after the adoption of the 1864 Convention, the international community has recognized the need for states to disseminate humanitarian rules among soldiers, military officials, and civilians who often intervene to protect victims of armed conflict. The widespread dissemination of this law among armed forces is based on states' fulfillment of their international obligations under Article 1 common to the Geneva Conventions, whereby the High Contracting Parties undertake to adopt, in peacetime and wartime, effective measures to ensure respect for the rules of war and to ensure their application[20].

The ICRC assists governments in fulfilling this responsibility. Among other things, it provides specialists to support training programs organized by governments on the law of armed conflict. This support has expanded to include training for police forces and other security forces called upon to intervene in situations where civilians may be at risk, as well as armed forces and other armed groups fighting against the authorities in their own countries, who are also obligated to respect fundamental standards. The ICRC's strategy for disseminating the rules of international humanitarian law among members of the armed forces relies on two key elements: conducting training courses for senior officers on the international rules governing military operations, and publishing materials targeted at this specific audience.

Subsection Two: Harmonizing the National Legal System with the Rules of International Humanitarian Law

As states are responsible for implementing and ensuring compliance with international humanitarian law, as affirmed by Article 1 of the 1949 Geneva Conventions, they endeavor to adopt legislative and executive measures to align their domestic laws with international norms. This ensures that their domestic conduct aligns with their international obligations.

The first Additional Protocol to the Geneva Conventions emphasizes the binding nature of international legal rules, implying that legislative and executive bodies within states are obligated to adhere to these rules, provided they are linked to state obligations.

Some states, such as the United States and the United Kingdom, have a unique system of incorporation, whereby international legal rules are automatically integrated into the national legal fabric through a constitutional provision that permits the modification of domestic legislation to align with international norms.

Other states, like Jordan and Egypt, while their constitutions do not explicitly incorporate international law, have adopted certain international legal rules following their domestic laws. For instance, Egypt has adopted the 1953 International Law on the Immunity of Diplomatic Agents, which prohibits the compulsion of diplomatic agents to testify in national courts.

International treaties, however, do not enter into force until they are ratified and published in the official gazette[21].

Section Two: States and Organizations Confronting Violations of International Humanitarian Law

Subsection One: Measures Taken by States The legal nature of international humanitarian law and its principles fundamentally contradict the notion of states engaging in retaliatory actions against one another, as was customary under traditional international law. International humanitarian law prohibits retaliatory acts against individuals, civilians, property, and civilian objects. This principle is rooted in Article 2(3) of the 1949 Geneva Convention Relative to the Treatment of Prisoners of War. The emphasis on enforcing the rules of international humanitarian law, preventing violations, and punishing perpetrators emerged in the early 20th century. In the 1906 Geneva Convention, states agreed to adopt or introduce measures necessary in times of war to prevent pillage and ill-treatment of wounded and sick members of the armed forces and to punish those who misuse the distinctive emblem of the Red Cross. Furthermore, the First Geneva Convention was amended to include Article 30, which stipulates that "[a]t the request of any of the belligerents, an inquiry shall be instituted, in a manner which the belligerents may agree upon, concerning any alleged violation

of the Convention. If such a violation is established, the belligerents shall take the measures necessary to put an end to it and to prevent other similar violations."

Following the adoption of the 1949 Geneva Conventions, the High Contracting Parties undertook to enact the legislation necessary to impose adequate sanctions upon persons committing, or ordering to be committed, any of the grave breaches enumerated in the Conventions[22].

After adopting measures to align their domestic legislation with the rules of international humanitarian law and to respect the Conventions, states have resorted to certain measures to curb violations of international humanitarian law. Among the most prominent measures taken by states are:

- **Strong and continuous protests:** A large number of state parties lodge protests with the ambassadors of the state concerned or with their governments, issuing warnings and expressing public condemnation. For example, in 1977, member states of the European Economic Community protested to Israeli authorities against the establishment of three settlements on the West Bank.
- **Exercising diplomatic pressure through intermediaries:** An example of this is the efforts undertaken by Switzerland to persuade the Soviet Union, China, and France to exert pressure on Arab states after Palestinian groups hijacked three civilian aircraft and forced them to land in Zarqa, Jordan.
- **Expulsion of diplomats:** For instance, the United States expelled a number of Iranian diplomats stationed in Washington following the seizure of the US embassy in Tehran in 1979.
- **Severing diplomatic relations:** For example, the Soviet Union and Eastern Bloc countries, except for Romania, severed diplomatic relations with Israel in 1967 following its aggression against Arab states.
- **Halting ongoing diplomatic negotiations or refusing to ratify previously signed treaties:** For example, the US Senate refused to examine the SALT II agreements due to the Soviet invasion of Afghanistan.
- **Withholding renewal of privileges or trade agreements:** In 1981, the United States decided not to renew the bilateral maritime agreement it had concluded with the Soviet Union and imposed restrictions on the entry of Soviet ships into US ports as of January 1982, following the crackdown in Poland[23].

Section Three: Measures Taken by Organizations to Curb Violations

Subsection One: Deployment of Field Missions

One of the tools and mechanisms employed by non-governmental organizations to address human rights violations is the deployment of field missions. Missions are a distinctive means of pressuring governments whenever there is evidence of human rights or international humanitarian law violations.[24]International non-governmental organizations typically begin their activities by gathering and meticulously documenting information. Subsequently, they can deploy field missions based on the information they have gathered.

1. Monitoring and Documentation: The primary task of international non-governmental organizations in monitoring human rights is to research and investigate the existence of violations of individuals' rights and fundamental freedoms. All international non-governmental organizations engage in this process. For example, the first step in Amnesty International's work is to collect reliable information about prisoners of conscience (those imprisoned because of their beliefs and who do not advocate or use violence) and prisoners facing torture or execution.[25] The International Committee of the Red Cross also engages in monitoring, particularly when there are serious and widespread violations of international humanitarian law, and when these violations prompt international action and identify the problem. The aim of monitoring, for the ICRC, is to observe

individual situations without bias, according to their relative importance, and to learn from these situations and seek appropriate remedies.[26]

The Security Council has encouraged the involvement of non-governmental organizations in the monitoring process. Resolution 1612 (2005) emphasizes that the monitoring and reporting mechanism should operate "within a framework of partnership and cooperation with national governments, United Nations bodies, and relevant civil society actors, including those at the national level" (paragraph 2 of resolution 1612/S/RES/2005). The guidelines for the monitoring and reporting mechanism also state that:

- Non-governmental and local organizations play a central role in the monitoring and reporting mechanism at all levels. Within the state, they are often at the forefront of contact with affected communities and are therefore an important source of information for the monitoring and reporting mechanism. They are particularly essential for providing appropriate programs for children.
- The participation of non-governmental organizations in the monitoring and reporting mechanism is a sensitive issue due to the risks it poses to NGO workers. In some cases, non-governmental organizations participate as full members of the monitoring and reporting mechanism team, while in other cases they may interact with the mechanism informally, providing information and alerts without having a visible role. Non-governmental organizations also play an important role before and after the monitoring and reporting mechanism, as they can access locations that may be difficult for the United Nations and international parties to reach[27].

2. The Process of Documenting Violations

After gathering information, testimonies, and evidence, and subjecting them to a process of scrutiny and verification to ensure their credibility and objectivity, the monitor documents these findings for use in official legal frameworks when necessary. This process is also referred to as recording the results obtained from the mission assigned to the monitoring team, along with various types of evidence, to submit them to the competent international criminal courts or United Nations committees to file complaints or contribute to providing the public prosecutor with the necessary data to initiate international criminal proceedings against the perpetrators of these violations[28].

There are two main types of field missions sent by non-governmental organizations:

A.Fact-Finding Missions: These missions are sent by non-governmental organizations to investigate allegations of human rights violations in a particular country. The investigation may be broad, covering the general human rights situation, especially after violent incidents such as the Palestinian uprising, the tensions between Serbs and Albanians in Kosovo, or the tensions between India and Pakistan. Alternatively, the investigation may focus on a specific human rights issue. For example, Amnesty International sent a mission to Algeria in March 1995 to investigate violations of the right to life, and the mission concluded by producing a detailed report on behalf of the organization to be used when necessary, typically before international bodies tasked with monitoring human rights[29].

B.Judicial Observation and Trial Monitoring Missions: Non-governmental organizations may send legal experts to attend the trials of individuals they consider to be political prisoners. These organizations are keen to follow political trials because they are often unjust and repressive, and may lead to the imposition of legal penalties that amount to cruel, inhuman, or degrading treatment. These organizations have regularly attended trials to monitor them and provide all possible guarantees for a fair, independent, and impartial trial following the provisions of the Universal Declaration of Human Rights.[30] A small number of non-governmental organizations monitor trials, particularly those labeled as political trials, where the trial, as some claim, is more of a persecution than a trial. Amnesty International, the International Commission of Jurists, or other organizations may send observers on their behalf. The International Committee of the Red Cross has monitored trials on some occasions, primarily in cases involving prisoners of war or those

covered by the Geneva Conventions or Protocols, and occasionally in cases involving political prisoners. The presence of such observers can help identify serious violations and instances of abuse of justice. Through these observers, non-governmental organizations can obtain accurate information for their reports and other work.[31] Amnesty International, which enjoys consultative status with the United Nations, always seeks to submit formal petitions to United Nations human rights bodies in addition to conducting fact-finding missions and providing the bodies with evidence[32].

Subsection Two: Influencing Public Opinion and Pressuring Officials

As former UN Secretary-General Ban Ki-moon stated at a high-level event on supporting civil society: "If leaders do not listen to their people, they will hear them in the streets and squares, or as we see now in many cases, on the battlefield. There is a better way: more participation, more democracy, more engagement and openness. This means allowing maximum space for civil society."

Civil society actors raise awareness of rights, assist communities in articulating concerns and developing strategies, influence policies and laws, and advocate for accountability. Civil society actors also gather community perspectives and find ways to fully inform them about the decision-making process regarding public policies. Moreover, civil society actors provide services to those who are vulnerable and at risk from various parties[33].

Non-violent pressure is a fundamental, essential, and public strategy commonly employed by non-governmental organizations. This strategy includes:

- ✓ Working to change global norms, particularly by raising public awareness and, more importantly, by changing habits and cultures. Non-governmental organizations seek international sympathy to pressure governments. Thus, they contribute to creating a global civil society that itself becomes a means of exerting pressure.
- ✓ Non-governmental organizations work to protect human rights by pressuring states to adopt and ratify various relevant international treaties and conventions. They exert this pressure through the United Nations, to achieve the following:

- ➢ Creating new standards for public policies if necessary.
- ➢ Ensuring that international standards and obligations related to the protection of human rights are implemented and that the means to realize them are mobilized to prevent any violations.
- ➢ Lobbying decision-makers within non-governmental organizations. NGOs have increasingly used behind-the-scenes lobbying of institutions, governments, and influential political figures.

The campaigns organized by non-governmental organizations like Amnesty International, through their complaints to UN treaty bodies regarding human rights issues, help strengthen states' compliance with international conventions[34].

CONCLUSION

Having delved into the definition of international humanitarian law, its various interpretations, its binding nature, and the measures undertaken by states and organizations to enforce it, we have arrived at a series of conclusions and recommendations:

FINDINGS:

- ✓ International humanitarian law has both broad and narrow interpretations.
- ✓ Customary and Codified Law: It is a combination of customary and codified law.
- ✓ Divergent Scholarly Opinions: There is a divergence of scholarly opinions regarding the binding nature of international humanitarian law. Some argue that it is ordinary legislation that can be modified like other laws, while others contend that it is superior to ordinary laws and can only be changed after the constitution and that compliance is mandatory.

- ✓ Varying State Compliance: States exhibit varying degrees of compliance with international humanitarian law, with some even disregarding the right to life.
- ✓ Ratification and Compliance: Compliance with international humanitarian law is often linked to the ratification of international treaties, creating a form of evasion of responsibility.
- ✓ Limitations of Diplomatic Measures: Mere denunciation and diplomatic means are insufficient to curb violations of international humanitarian law.

Recommendations:

- ✓ The International Committee of the Red Cross alone is insufficient to oversee international humanitarian law. A collective international effort is necessary to ensure its respect.
- ✓ Universal Dissemination: All states, regardless of their ratification of international humanitarian law treaties, should be urged to disseminate and train on the rules of international humanitarian law.
- ✓ Harmonization of Domestic Laws: States must align their domestic legislation with the rules of international humanitarian law treaties and conventions.
- ✓ Balance of Sovereignty and Humanity**:** The principle of state sovereignty should be upheld, but not at the expense of humanity.
- ✓ New International Mechanisms: International efforts should be intensified to develop new mechanisms to compel states to respect the rules of international humanitarian law.

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