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**CRITICAL ANALYSIS ON THE PROTECTION OF
INTERNATIONAL HUMANITARIAN ORGANISATIONS DURING
INTERNATIONAL ARMED CONFLICT**

A Dissertation submitted to the School of Law in
partial fulfillment of the academic requirements for
the Award of Bachelor's Degree in Law.

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Kigali September t 2024

DECLARATION

I, **KARAMIRA Jean Bosco**, hereby declare that this research on “**CRITICAL ANALYSIS ON THE PROTECTION OF INTERNATIONAL HUMANITARIAN ORGANISATIONS DURING INTERNATIONAL ARMED CONFLICT**” is a result of my original work and has never been submitted to any other University or Institution of higher learning for any academic award.

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APPROVAL

This research work of **KARAMIRA Jean Bosco** on “**CRITICAL ANALYSIS ON THE PROTECTION OF INTERNATIONAL HUMANITARIAN ORGANISATIONS DURING INTERNATIONAL ARMED CONFLICT**” completed in partial fulfillment of the academic requirements for the award of Bachelor’s Degree in Law at Kigali Independent University embodies the work done by him under my supervision and submitted with my approval.

Signature:

Name: KABANDANA Ernest

Date:

DEDICATION

This work is dedicated to:

My wife, children, brothers, sisters and friends who are wishing and praying for the successful completion of my studies

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Great thanks go to the Almighty God. It is under his Mercy I have been able to achieve this research report. I wish to express my deep gratitude to **Prof. Dr. RWIGAMBA BALINDA** for his initiative of promoting education in Rwanda. I also thank the administrative and academic authorities of **KIGALI INDEPENDENT UNIVERSITY** for the knowledge they gave us.

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Karamira Jean Bosco

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LIST OF ACRONYMS AND ABBREVIATIONS

ACHPR	: African Commission on Human and Peoples' Rights
AP	: Additional Protocol
Art.	: Article
CERF	: Central Emergency Response Fund
Ed.	: Edition
Et al.	: et alia: and others
GC	: Geneva Convention
IAC	: International Armed Conflict
IACHR	: Inter-American Commission on Human Rights
ICC	: International Criminal Court
ICCPR	: International Covenant on Civil and Political Rights
ICTR	: International Criminal Tribunal for Rwanda
ICTY	: International Criminal Tribunal for the former Yugoslavia
IDP	: Internally Displaced Persons
IED	: Improvised Explosive Devices
IHO	: International Humanitarian Organizations
IHRL	: International Human Rights Law
MLATs	: Mutual legal assistance treaties
MSF	: Médecins Sans Frontières (Doctors Without Borders)
NGO	: Non-Governmental Organisation
NIAC	: Non-International Armed Conflicts
No.	: Number
OCHA	: United Nations Office for the Coordination of Humanitarian Affairs
OHCHR	: Office of the United Nations High Commissioner for Human Rights
P.	: Page
POWs	: Prisoner of War

SOPs : Standard Operating Procedures
UDHR : Universal Declaration of Human Rights
ULK : Kigali Independent University (Université Libre de Kigali)
UN : United Nations
ICRC : International Committee of the Red Cross
UNHCR : United Nations High Commissioner for Refugees
Vol. : Volume
WFP : World Food Programme

GENERAL INTRODUCTION

This part comprises the background and significance of the study, delimitation of the study, problem statement, hypotheses, objectives of the study, research methodology and the structure of the study.

1.1. Background to the Study

Humanitarian protection is the act of promoting and ensuring the legal rights of people affected by humanitarian crises¹. The concept of humanitarian protection was established by the 1949 Geneva Conventions²³⁴⁵ and responsibility to ensure protection was mandated to the International Committee of the Red Cross. The Geneva Conventions and their Additional Protocols⁶⁷⁸ is a body of Public International Law, also known as the Humanitarian Law of Armed Conflicts, whose purpose is to provide minimum protections, standards of humane treatment, and fundamental guarantees of respect to individuals who become victims of armed conflicts. Outside of times of crises, national governments tend to have responsibility to ensure that people's rights are protected, but during humanitarian emergencies aid agencies often perform the task. Humanitarian protection by non-governmental agencies is coordinated by the United Nations High Commissioner for Refugees.

A growing unmet need for humanitarian protection was identified in recent years, exacerbated by a major gap in donor-funding of humanitarian protection activities⁹. During recent armed conflicts, increasing numbers of civilians have been killed, wounded, treated without dignity,

¹ bruderlein, claude; leaning, jennifer (2019). "new challenges for humanitarian protection". *bmj: british medical journal*. 319 (7207): 430–435

² convention (i) for the amelioration of the condition of the wounded and sick in armed forces in the field. geneva, 12 august 1949.

³ convention (ii) for the amelioration of the condition of wounded, sick and shipwrecked members of armed forces at sea. geneva, 12 august 1949.

⁴ convention (iii) relative to the treatment of prisoners of war. geneva, 12 august 1949.

⁵ convention (iv) relative to the protection of civilian persons in time of war. geneva, 12 august 1949.

⁶ protocol additional to the geneva conventions of 12 august 1949, and relating to the protection of victims of international armed conflicts (protocol i), 8 june 1977.

⁷ protocol additional to the geneva conventions of 12 august 1949, and relating to the protection of victims of non-international armed conflicts (protocol ii), 8 june 1977.

⁸ protocol additional to the geneva conventions of 12 august 1949, and relating to the adoption of an additional distinctive emblem (protocol iii), 8 december 2005

⁹ matthew evangelista and nina tannenwald (eds.). 2017. *do the geneva conventions matter?* oxford university press.

arbitrarily detained and/or separated from their families. They have been targeted on purpose, forced to leave their homes, and deprived of their basic rights as human beings, such as the right to supplies essential to their survival¹⁰.

In so-called " failed states " or " anarchic states " , the central government, having effectively lost control over much, or all, of its territory, can no longer carry out its formal functions, which will lead gradually to the disintegration of state structures. As the state's monopoly on the use of force lessens, factions, warlords or bandits take " law and order " into their own hands, while civilians may take up arms to defend themselves: all leading to a spiral of violence. The armed groups loose chains of command, coupled with their lack of responsibility, favour unbalanced behaviour. When civilians become the actual target of hostilities, as in " ethnic conflicts " for example, the basic rules protecting them are completely blurred. This is a sad characteristic of the post-Cold War era¹¹.

Under humanitarian law, the civilian population in general is protected from dangers arising from military operations. However, some groups among the population, such as children, women, the elderly, persons with disabilities and displaced people, have specific needs and are entitled to special attention. Civilians can also expect, under humanitarian law, adequate care and respect. But one of the most acute challenges facing humanitarian organisations at present is access to all the victims of an armed conflict¹².

In sum, the protection of humanitarian organizations during armed conflict is a crucial aspect of international humanitarian law (IHL) and human rights law. Humanitarian organizations play a vital role in providing assistance, protection, and advocacy for civilians affected by armed conflict¹³. However, they often face significant challenges and risks in carrying out their mandates due to the complex and volatile nature of conflict zones. Therefore, the present study would be undertaken in order to make a critical analysis on the protection of international humanitarian organisations during armed conflict under international humanitarian law.

¹⁰ matthew evangelista and nina tannenwald (eds.), op. cit., p. 12

¹¹ helen kinsella. (2019). *the image before the weapon : a critical history of the distinction between combatant and civilian*. cornell university press.

¹² ibidem

¹³ boyd van dijk (2022). *preparing for war: the making of the geneva conventions*. oxford university press.

1.2. Significance of the Study

The significance of the study is explained on three perspectives: personal interest, academic and scientific interest and social interest.

1.2.1. Persona Interest

Personally, the choice of this topic was dictated by my desire to master the protection of humanitarian organisations during armed conflict under international humanitarian law. So, I decided to make a legal analysis of this problem based on the ongoing critics. Therefore, this subject seems to me personally interesting insofar as it gives me more knowledge on the provisions related to the protection of humanitarian organisations during armed conflict.

1.2.2. Academic and Scientific Interest

On the academic perspective, the subject meets the academic requirements which stipulate that any student finalizing his/her studies must prepare and submit a research paper.

On the scientific perspective, this study will serve as documentation for future researchers who would like to work on the protection of humanitarian organisations during armed conflict under international humanitarian law in general and the current critics related to the challenges faced by some organizations in particular.

1.2.3. Social Interest

On social perspective, this study is significant for several reasons: It contributes to a better understanding of the challenges faced by humanitarian organizations in conflict settings, thereby informing policy and practice aimed at enhancing their protection and effectiveness. By identifying gaps in existing legal frameworks and mechanisms, this study lays the groundwork for advocacy efforts aimed at strengthening the legal protection of humanitarian personnel and activities. The findings and recommendations of this study have practical implications for humanitarian organizations, governments, and international actors involved in humanitarian response and peacebuilding efforts, guiding efforts to mitigate risks and improve the safety and security of humanitarian operations.

In conclusion, the protection of humanitarian organizations during armed conflict is a complex and multifaceted challenge that requires urgent attention and concerted action from all stakeholders. By critically analyzing the underlying factors contributing to this problem and proposing actionable recommendations, this study seeks to contribute to the advancement of humanitarian protection efforts and the promotion of human security in conflict-affected contexts.

1.3. Scope of the Study

The scope of a study outlines its boundaries and defines the extent of the research. It includes a clear description of the objectives, the subject matter, the research questions, the timeframe, the geographical area, the population or sample being studied, and the specific variables or issues being addressed. Essentially, the scope delineates what will and will not be covered in the study, providing a focused framework for conducting and interpreting the research¹⁴. This study is scoped in time, domain and space.

1.3.1. Scope in Time

In time, this topic is limited to the period from 1949 to 2024. The year 1949 corresponds to the establishment of the concept of humanitarian protection by the 1949 Geneva Conventions and the year 2024 is the year during which this study is being carried out.

1.3.2 Scope in Domain

In terms of spatial coverage, the study encompasses the entire world, addressing a globally relevant issue. By analyzing a universal problem, the research aims to provide insights and solutions that are applicable across various regions and contexts. This broad geographic scope ensures that the findings are comprehensive and can contribute to global understanding and policy-making.

¹⁴ Sumanatilake, P. Saliya (2023). Op. Cit., p. 50

1.3.3 Scope in Space

In terms of domain, this study is conducted within the field of humanitarian law. It focuses on the legal frameworks, principles, and practices that govern the protection of individuals during conflicts and crises. By situating the research within humanitarian law, the study aims to contribute to the development and implementation of policies that uphold human rights and ensure justice in humanitarian contexts.

1.4. Problem Statement

The problem which the study seeks to address is increasing potential risk encountered by humanitarian organisations in conducting their activities during armed conflict¹⁵. The protection of humanitarian organizations during armed conflict is beset by multifaceted challenges that undermine their ability to deliver lifesaving assistance and protection to vulnerable populations. These challenges include but are not limited to: security risks, access constraints, targeted attacks and legal protection and accountability.

Indeed, the humanitarian personnel often face direct threats to their safety, including attacks, abductions, and harassment, perpetrated by state and non-state actors involved in armed conflict. Inadequate security measures and the volatile nature of conflict zones exacerbate these risks, impeding the ability of humanitarian organizations to carry out their mandates effectively¹⁶.

Also, the humanitarian access to conflict-affected areas is frequently impeded by bureaucratic hurdles, logistical barriers, and restrictions imposed by parties to the conflict. Such constraints hinder the timely delivery of essential aid and protection services to populations in need, exacerbating humanitarian crises and escalating human suffering¹⁷.

In addition, the humanitarian personnel, facilities, and assets are often deliberately targeted by parties to the conflict, violating the principles of neutrality, impartiality, and independence enshrined in international humanitarian law. These attacks not only endanger the lives of

¹⁵ Matthew Evangelista and Nina Tannenwald (eds.), Op. Cit., p. 15

¹⁶ Boyd van Dijk (2022), Op. Cit., p. 29

¹⁷ Sumanatilake, P. Saliya (2023). *Non-cognisability of Rebels, Insurrectionists, Separatists or Terrorists under International Humanitarian Law*. Addressing Some Contentious Issues In Criminal Justice Administration (Kindle ed.). Atlanta (Georgia), U.S.A.: Self Published via Amazon's K.D., p. 47

humanitarian workers but also disrupt critical humanitarian operations, further exacerbating the humanitarian impact of armed conflict¹⁸. While international humanitarian law provides specific protections for humanitarian personnel and activities, enforcement mechanisms and accountability for violations remain inadequate. Perpetrators of attacks on humanitarian organizations often enjoy impunity, undermining efforts to uphold the rule of law and protect humanitarian actors¹⁹. Thus, the present study would be undertaken in order to make a critical analysis on the protection of international humanitarian organisations during armed conflict under international humanitarian law.

1.5. Research Questions

This study will be guided by the following questions:

1. To what extent international humanitarian organizations are protected under international humanitarian law?
2. What are the mechanisms to enhance the protection of international humanitarian organizations during armed conflicts?

1.6. Research Hypotheses

This study verified the following hypotheses:

1. International humanitarian organizations are not fully protected under international humanitarian law;
2. Both legal and institutional mechanisms could enhance the protection of international humanitarian organizations under international humanitarian law.

1.7. Research Objectives

Under this section, both general and specific objectives are formulated. The general objective outlines the overall aim and broad purpose of the study, providing a high-level view of what the

¹⁸ Ibidem

¹⁹ Sumanatilake, P. Saliya (2023). Op. Cit., p. 51

research intends to achieve. Specific objectives break down this overarching goal into detailed, measurable tasks, highlighting the particular aspects and questions the study will address to fulfill its general aim. These objectives guide the research process and ensure that all aspects of the study are aligned with its intended outcomes.

1.7.1 General Objective

The general objective of this study is to conduct a comprehensive to make a critical analysis on the protection of international humanitarian organisations during armed conflict under international humanitarian law.

1.7.2. Specific Objectives

1. To evaluate the level of protection of international humanitarian organizations under international humanitarian law;
2. To identify the mechanisms and strategies to enhance the protection of international humanitarian organizations during armed conflicts.

1.8. Research Methodology and Techniques

Research methodology refers to the systematic plan for conducting research. It encompasses the strategies, techniques, and tools used to collect, analyze, and interpret data. The methodology ensures the research is conducted rigorously, providing a structured approach to answering research questions, testing hypotheses, and achieving the study's objectives. It includes both qualitative and quantitative methods, as well as mixed-method approaches, tailored to the specific needs of the research project²⁰. In this point, the researcher is dealing with techniques used in data collection and methods used to analyse data.

²⁰ Saunders M. et al. (2007). Research Methods for Social Studies, 4th ed. Harlow, England: Pearson Education Ltd, p 47

1.8.1. Research Technique

The research is mainly a documentary based research where international conventions, protocols, treaties books, journals and reports have been consulted.

1.8.2. Research Methods

The research methods are used to systematically collect and analyze data, enabling researchers to answer specific questions, test hypotheses, and draw conclusions. They provide a structured framework for conducting research, ensuring accuracy, validity, and reliability of the findings. These methods can be qualitative, quantitative, or a combination of both, depending on the nature and goals of the study²¹. This study used exegetic, analytic and synthetic methods.

1.8.2.1. Exegetic Method

The exegetic method involves the careful analysis and interpretation of existing legal texts to understand their meaning, scope, and application²². In this study, the researcher applied the exegetic approach primarily to interpret international conventions that govern the protection of humanitarian organizations during armed conflicts. By examining the language, context, and underlying principles of these conventions, the researcher sought to clarify their provisions, assess their relevance in specific conflict situations, and explore how they are applied in practice. This method enabled a detailed understanding of the legal frameworks intended to safeguard humanitarian actors in challenging environments, facilitating insights into both the strengths and limitations of the existing legal protections.

1.8.2.2. Analytic Method

This method allows for a thorough analysis of the information gathered from the field by providing additional insights into the overall context of the collected data. By systematically interpreting legal texts, the researcher was able to evaluate the data in a structured and

²¹ Idem, p. 50

²² Ibidem

comprehensive manner²³. This approach ensured that the information was not only assessed in light of the legal frameworks but also examined within the broader context of the study. As a result, the exegetic method facilitated a deeper understanding of the field data by connecting it to established legal principles and enhancing the overall analysis with relevant legal interpretations.

1.8.2.3. Synthetic Method

This method was employed to summarize the research findings and streamline the overall structure of the study²⁴. After analyzing the available information or data, the exegetic method was applied alongside the analytical method to provide a coherent and well-organized presentation of the results. This combination ensured that the research was not only comprehensive but also logically structured. Additionally, this approach facilitated the synthesis of the study's main points, making it easier to draw conclusions and present the key insights in a concise and integrated manner, as required by the research objectives.

1.9. Structure of the Study

Apart from the general introduction, this study has three chapters. Chapter one will be about Conceptual Framework and Literature Review. Chapter two level of protection of international humanitarian organizations in during armed conflict. Then Chapter 3 will contain the Mechanisms and Strategies to Enhance the Protection of International Humanitarian Organizations During Armed Conflicts. Finally, the study concludes with a General Conclusion that summarizes the key findings of the research and offers recommendations to address the challenges identified.

²³ Sekaran U. (2009). *Research Methods for Social Studies*, 3rd Edition. New York, USA: Thousand Oaks, CA, p. 48

²⁴ *Idem*, p. 51

CHAPTER 1: CONCEPTUAL AND THEORETICAL FRAMEWORK

Introduction

This chapter is devoted to the definition and generalities of the protection of international humanitarian organizations during armed conflicts and explanation of the existing literature including theoretical literature and critical literature.

1.1 Definition of key concepts

Under this section, the following concepts were defined according to legal texts and other doctrine or existing literature: protection, international humanitarian organizations, armed conflicts and international humanitarian law.

1.1.1 Protection

Protection is the act of safeguarding someone or something from harm, danger, or damage. It involves measures and actions taken to ensure safety, security, and preservation, often through preventive or defensive strategies. Protection can apply to individuals, properties, rights, and environments²⁵.

In the field of law, protection refers to the legal measures and mechanisms put in place to safeguard individuals, property, and rights from infringement, harm, or abuse. This includes ensuring personal safety, upholding civil liberties, enforcing contracts, and defending against legal violations. Legal protection encompasses a wide range of areas such as criminal law, civil rights, intellectual property, consumer protection, and environmental law, providing a structured framework for justice and accountability²⁶.

1.1.2 International humanitarian organization

An international humanitarian organization is a non-governmental entity that operates globally to provide aid and relief to people affected by crises such as armed conflicts, natural disasters, and other emergencies. These organizations focus on alleviating human suffering, protecting human

²⁵ Clapham, Andrew; Gaeta, Paola; Haeck, Tom; Priddy, Alice (2014). *The Oxford Handbook of International Law in Armed Conflict*. Oxford University Press, p. 27

²⁶ Ibidem

rights, and ensuring the basic needs of affected populations are met, including food, water, shelter, medical care, and education. Examples include the International Red Cross and Red Crescent Movement, Médecins Sans Frontières (Doctors Without Borders), and the United Nations High Commissioner for Refugees (UNHCR)²⁷.

1.1.3 International humanitarian law

The law that governs the conduct of war (*jus in bello*) is known as international humanitarian law (IHL), sometimes known as the laws of armed conflict. Under this area of international law, the tools and tactics that combatants can use to wage war are restricted, while civilians who choose not to take part in hostilities are protected.

Humanity and the desire to lessen suffering among people serve as the foundation of international humanitarian law. It defines the conduct and responsibilities of belligerent nations, neutral nations, and individuals engaged in warfare, in relation to each other and to protected persons, usually meaning non-combatants. It is designed to balance humanitarian concerns and military necessity, and subjects warfare to the rule of law by limiting its destructive effect and alleviating human suffering. Serious violations of international humanitarian law are called war crimes²⁸.

While IHL (*jus in bello*) concerns the rules and principles governing the conduct of warfare once armed conflict has begun, *jus ad bellum* pertains to the justification for resorting to war and includes the crime of aggression. Together the *jus in bello* and *jus ad bellum* comprise the two strands of the laws of war governing all aspects of international armed conflicts. The law is mandatory for nations bound by the appropriate treaties. There are also other customary unwritten rules of war, many of which were explored at the Nuremberg trials. IHL operates on a strict division between rules applicable in international armed conflict and internal armed conflict²⁹.

²⁷ Clapham, Andrew; Gaeta, Paola; Haeck, Tom; Priddy, Alice, *Op. Cit.*, p. 29

²⁸ Crawford, Emily; Pert, Alison, *Op. Cit.*, p. 62

²⁹ *Ibidem*

International humanitarian law is traditionally seen as distinct from international human rights law (which governs the conduct of a state towards its people), although the two branches of law are complementary and in some ways overlap.

1.1.4 Armed conflict

An armed conflict is a state of prolonged, organized violence between two or more groups, typically involving regular or irregular armed forces. It can occur between states (international armed conflict) or between governmental forces and non-state groups, or between such groups within a state (non-international armed conflict). These conflicts are characterized by the use of weapons and military tactics, often leading to significant casualties, destruction, and displacement of populations. Armed conflicts are governed by international humanitarian law, which aims to protect those not participating in the hostilities and to restrict the ways and techniques of warfare³⁰.

1.1.5 International armed conflict

An international armed conflict (IAC) is a situation where there is resort to armed force between two or more states. Under international humanitarian law (IHL), particularly the Geneva Conventions of 1949 and their Additional Protocols, an international armed conflict arises whenever there is a confrontation involving military forces between sovereign states, regardless of the duration or intensity of the hostilities³¹.

Key features of an IAC include: The parties involved are states, distinguishing it from non-international armed conflicts (NIACs), which involve states and non-state armed groups or only non-state actors. The application of IHL, including the Geneva Conventions and other relevant treaties, is triggered as soon as armed force is used between states. IHL aims to protect those who are not or are no longer participating in hostilities, such as civilians, medical personnel, and prisoners of war, and to regulate the conduct of hostilities. Even a minor incident involving armed force between states, if it results in hostilities, can be classified as an international armed conflict under IHL.

³⁰ Crawford, Emily; Pert, Alison (2020). *International Humanitarian Law*. Cambridge University Press, p. 44

³¹ Ibidem

1.1.6 Non-International armed conflict

A non-international armed conflict (NIAC) is a situation of protracted armed violence that occurs within the territory of a single state, involving either the state's armed forces and organized non-state armed groups, or between such groups themselves. Unlike international armed conflicts, which involve clashes between states, a NIAC involves internal hostilities³².

Under international humanitarian law (IHL), particularly Common Article 3 of the Geneva Conventions and Additional Protocol II (AP II), a NIAC must meet certain criteria: Intensity of Violence: The conflict must reach a certain level of intensity, going beyond internal disturbances such as riots, isolated incidents, or short-term skirmishes. It typically involves sustained and coordinated military operations. Organization of Parties: The non-state armed groups involved must be sufficiently organized, possessing command structures and the ability to carry out military operations. These groups must be more than loosely connected factions and should have a clear hierarchy and leadership. Geographical Scope: The conflict is confined within the borders of a single state, although the impact can have regional or international implications. Legal Framework: IHL provides protections and regulations, such as the humane treatment of non-combatants, prohibitions against targeting civilians, and the duty to care for the wounded and detained³³.

Examples of NIACs include civil wars, insurgencies, and prolonged armed confrontations between government forces and rebel groups. Unlike international armed conflicts, which have more extensive legal frameworks, NIACs are primarily governed by Common Article 3 and, where applicable, Additional Protocol II³⁴.

1.2 Generalities on the international humanitarian law

This section provides details on the general aspects of international humanitarian law. It encompasses the foundational principles, key conventions, and customary rules that govern the conduct of armed conflicts and the protection of individuals who are not or are no longer participating in hostilities. Additionally, it explores the historical evolution, scope, and

³² Crawford, Emily; Pert, Alison, Op. Cit., p. 14

³³ Idem, p. 16

³⁴ Common Article 3 of Additional Protocol II

application of international humanitarian law, highlighting its role in mitigating the impacts of war and ensuring humane treatment for all affected parties.

1.2.1 The Geneva Law and the Hague Law

The two historical streams that comprise modern international humanitarian law are the Geneva Law, often known as humanitarian law, and the Hague Law, sometimes known as the law of war proper. The two streams get their names from several international conferences that drafted war and conflict-related accords, including the first Geneva Conventions (1863) and the Hague Conventions (1899 and 1907). Both address the issue of *jus in bello*, or whether particular actions are appropriate in times of armed conflict.

Determines the rights and duties of belligerents in the conduct of operations and limits the choice of means in doing harm" is how the Law of The Hague, often known as the laws of war proper, put it. It specifically addresses the following issues: defining combatants; establishing guidelines for the tactics and strategies of warfare; and investigating the question of military aims. .

It was not until the 19th century that systematic efforts were made to reduce the ferocity of combat. These worries were able to expand upon how states, impacted by the Age of Enlightenment, began to approach warfare differently. Disabling the opposing combatants was one way to achieve the goal of warfare, which was to overthrow the enemy state. Therefore, "some of the pillars of modern humanitarian law, such as the distinction between combatants and civilians, the requirement that wounded and captured enemy combatants must be treated humanely, and that quarter must be given, all follow from this principle"³⁵.

1.2.2 The Geneva Law

Before 1800, military practice was summed up by Fritz Munch as follows: "The essential points seem to be these: In battle and in towns taken by force, combatants and non-combatants were killed and property was destroyed or looted." Hugo Grotius, a Dutch jurist who is recognized as the father or founder of public international law, stated in the 17th century that "it cannot be

³⁵ Ibidem

denied that wars use force and terror as their most appropriate agents in order to achieve their goals."³⁶.

1.2.2.1 Humanitarian standards across time

But even in the midst of historical devastation, humanitarian standards for the defense of armed conflict victims the injured, the ill, and the shipwrecked have been frequently stated and invoked. These have been around since antiquity.

In the Old Testament, the King of Israel heeds the prophet Elisha's advice to spare enemy prisoners and forgoes the killing of the captured. Elisha answered the King's inquiry by saying, "You must not slay them. With your sword and bow, would you kill those whom you have captured? Arrange bread and water in front of them so they can consume it and then proceed to their master.." ³⁷

Records from ancient India (the Laws of Manu, for instance) list the kinds of weapons that are prohibited from use: "When he fights with his foes in battle, let him not strike with weapons concealed (in wood), nor with (such as are) barbed, poisoned, or the points of which are blazing with fire." Additionally, it is forbidden to harm an adversary or a eunuch "who folds his hands in supplication..." Not one who lies down, not one who misplaces their coat of mail, not one who is unclothed, not one who is unarmed, and not one who observes without joining the battle." ³⁸

As per Islamic law, it is forbidden to molest "non-combatants who did not take part in fighting such as women, children, monks and hermits, the aged, blind, and insane". Abu Bakr, the first Caliph, declared, "Do not dismember. Never murder small children, elderly people, or ladies.

Do not cut off the heads of palm trees or burn them. Do not cut down fruit trees. Do not slaughter livestock except for food." Islamic jurists have held that a prisoner should not be killed, as he "cannot be held responsible for mere acts of belligerency". However, the prohibition against killing non-combatants is not necessarily absolute in Islamic Law. For example, in situations where an "enemy retreats inside fortifications and one-to-one combat is not an option", Islamic jurists have been unanimous as to the permissibility on the use of less discriminating weapons

³⁶ Idem, p. 73

³⁷ Fleck, Dieter (2021). *The Handbook of International Humanitarian Law*. Oxford University Press, p. 117

³⁸ Ibidem

such as mangonels (a weapon for catapulting large stones) if required by military necessity but have differed with respect to the use of fire in such cases³⁹.

1.2.2.2 Humanitarian norms codified

The current Armistice Agreement and Regularization of War, which was signed and ratified in 1820 in the Venezuelan city of Santa Ana de Trujillo by the leaders of the then-Government of Great Colombia and the Chief of the Expeditionary Forces of the Spanish Crown, is the most significant precursor to International Humanitarian Law. Being the first of its sort in the West, this pact was signed during the fight of independence.

That is, until the latter part of the 1800s, that a more methodical approach was started. German immigrant Francis Lieber created the Lieber Code, a code of behavior for the Union Army during the American Civil War, in 1863 when he was living in the United States. The Lieber Code prohibited the death of Prisoners and mandated the humane treatment of civilians in conflict zones.⁴⁰

At the same time, the involvement during the Crimean War of a number of such individuals as Florence Nightingale and Henry Dunant, a Genevese businessman who had worked with wounded soldiers at the Battle of Solferino, led to more systematic efforts to prevent the suffering of war victims. Dunant wrote a book, which he titled *A Memory of Solferino*, in which he described the horrors he had witnessed. His reports were so shocking that they led to the founding of the International Committee of the Red Cross (ICRC) in 1863, and the convening of a conference in Geneva in 1864, which drew up the Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field⁴¹.

The Law of Geneva is directly inspired by the principle of humanity. It relates to those who are not participating in the conflict, as well as to military personnel hors de combat. It provides the legal basis for protection and humanitarian assistance carried out by impartial humanitarian organizations such as the ICRC. This focus can be found in the Geneva Conventions.

³⁹ Idem, p. 118

⁴⁰ Kalshoven, Frits; Zegveld, Liesbeth (2011). *Constraints on the Waging of War: An Introduction to International Humanitarian Law*. Cambridge University Press, p. 60

⁴¹ Ibidem

1.2.3 Geneva Conventions

The Geneva Conventions are the result of a process that developed in a number of stages between 1864 and 1949. It focused on the protection of civilians and those who can no longer fight in an armed conflict. As a result of World War II, all four conventions were revised, based on previous revisions and on some of the 1907 Hague Conventions, and readopted by the international community in 1949. Later conferences have added provisions prohibiting certain methods of warfare and addressing issues of civil wars⁴².

The first three Geneva Conventions were revised, expanded, and replaced, and the fourth one was added, in 1949⁴³. The Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field was adopted in 1864. It was significantly revised and replaced by the 1906 version, the 1929 version, and later the First Geneva Convention of 1949. The Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea was adopted in 1906. It was significantly revised and replaced by the Second Geneva Convention of 1949. The Geneva Convention relative to the Treatment of Prisoners of War was adopted in 1929. It was significantly revised and replaced by the Third Geneva Convention of 1949. The Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War was adopted in 1949.

There are three additional amendment protocols to the Geneva Convention⁴⁴: Protocol I (1977): Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts. As of 12 January 2007 it had been ratified by 167 countries. Protocol II (1977): Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts. As of 12 January 2007 it had been ratified by 163 countries. Protocol III (2005): Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem. As of June 2007 it had been ratified by seventeen countries and signed but not yet ratified by an additional.

⁴² Idem, p. 61

⁴³ Solis, Gary D. (2021). *The Law of Armed Conflict: International Humanitarian Law in War*. Cambridge University Press, p. 34

⁴⁴ Ibidem

The Geneva Conventions of 1949 may be seen, therefore, as the result of a process which began in 1864. Today they have "achieved universal participation with 194 parties". This means that they apply to almost any international armed conflict. The Additional Protocols, however, have yet to achieve near-universal acceptance, since the United States and several other significant military powers (like Iran, Israel, India and Pakistan) are currently not parties to them.

1.2.4 Historical confluence of the laws of war and IHL

Although the Hague law already had human rights elements (such as the protection of certain prisoners of war and civilians in occupied territory), the two legal streams started to intersect with the introduction of the 1977 Additional Protocols to the Geneva Conventions. Not only did the 1977 Additional Protocols integrate elements of the Law of The Hague and the Law of Geneva, but they also included significant human rights provisions pertaining to the protection of victims in both internal and international conflict.⁴⁵

1.2.5 Fundamental IHL rules

Protected persons are those hors de combat (outside of combat) or not taking part in hostilities in a situation of armed conflict, and shall be protected in all circumstances. Excluding from the list of protected persons in international armed conflict are civilians under their own national authority and neutral citizens living in belligerent territory and co-belligerent persons as long their state of nationality maintains diplomatic relations with a belligerent power⁴⁶.

Protected persons who are wounded and sick shall be cared for and protected by the party to the conflict which has them in its power. The emblem of the "Red Cross", or of the "Red Crescent," shall be required to be respected as the sign of protection. Protected persons captured by a belligerent must be protected against acts of violence and reprisals. They shall have the right to correspond with their families and to receive relief.

No protected person shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment. Parties to a conflict do not have an unlimited choice of methods and means of warfare. Parties to a conflict shall at all times distinguish between enemy combatants and protected persons. Attacks shall be directed solely against legitimate military targets.

⁴⁵ Solis, Gary D., Op. Cit., p. 35

⁴⁶ Thürer, D. (2011). *International Humanitarian Law: Theory, Practice, Context*. Martinus Nijhoff Publishers, p. 7

1.2.6 Examples of rules of IHL

These regulations include, for example, the well-known ban on harming medical professionals or ambulances that are carrying red crosses. Additionally, it is forbidden to open fire on an individual or vehicle flying the white flag, as it symbolizes a wish for communication or surrender. Either way, those covered by the Red Cross or the White Flag are expected to remain neutral and not take part in acts of war; in fact, carrying out acts of war while flying either flag violates the rules of war⁴⁷.

These examples of the laws of war address: declarations of war; acceptance of surrender; the treatment of prisoners of war; the avoidance of atrocities; the prohibition on deliberately attacking non-combatants; and the prohibition of certain inhumane weapons.

It is a violation of the laws of war to engage in combat without meeting certain requirements, among them the wearing of a distinctive uniform or other easily identifiable badge, and the carrying of weapons openly. Impersonating soldiers of the other side by wearing the enemy's uniform is allowed, though fighting in that uniform is unlawful perfidy, as is the taking of hostages.

1.2.7 Additions made later to the Geneva Convention

Nowadays, a number of accords that prohibit particular weapons are part of international humanitarian law. The main reason these conventions were made is that lethal weapons continue to kill and maim people long after hostilities have ceased. Up to 7,000 people are murdered annually by unexploded land mines; many more are killed by unexploded bombs, especially those from cluster bombs, which disperse numerous tiny "bomblets." 98% of the deaths are thought to be civilians; typical victims include children who discover these devices and farmers working their fields. The following conventions have been adopted as a result of these factors.⁴⁸:

The 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects forbids the use of weapons that produce undetectable fragments, limits the use of mines and

⁴⁷ Carey, John; Dunlap, William (2003). *International Humanitarian Law: Origins (International Humanitarian Law) (International Humanitarian Law)*. Dobbs Ferry, N.Y: Transnational Pub, p. 27

⁴⁸ Idem, p. 28

booby-traps but does not completely eliminate their use, forbids the use of incendiary weapons against civilians, forbids the use of blinding laser weapons, and mandates that the warring parties remove unexploded ordnance at the end of hostilities.

The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (1997), also called the Ottawa Treaty or the Mine Ban Treaty, which completely bans the stockpiling (except to a limited degree, for training purposes) and use of all anti-personnel land mines;

The Optional Protocol on the Involvement of Children in Armed Conflict (2000), an amendment to the Convention on the Rights of the Child (1989), which forbids the enlistment of anyone under the age of eighteen for armed conflict; and the Convention on Cluster Munitions (2008), which prohibits the use of bombs that scatter bomblets, many of which do not explode and remain dangerous long after a conflict has ended⁴⁹.

1.2.8 The Red Cross International Committee

The only organization specifically designated as a controlling authority under international humanitarian law is the ICRC. The International Committee of the Red Cross (ICRC) was established by its own Statutes and the four Geneva Conventions of 1949. The sole goal of the International Committee of the Red Cross (ICRC), an unbiased, neutral, and autonomous organization, is to defend the lives and dignity of victims of internal violence and war, as well as to offer them aid.⁵⁰

1.2.9 Violations and punishment

A precise, intentional, and restricted breach of the laws of war in retaliation may be the punishment for breaking them during a battle. Combatants who violate certain laws of war terms forfeit the privileges and protections granted to them as POWs, but only after they have been tried by a "competent tribunal". After then, they are considered unlawful combatants, although

⁴⁹ Solis, Gary D., *Op. Cit.*, p. 38

⁵⁰ *Idem*, p. 39

they are still protected by GC IV, Article 5, which states that they must be "treated with humanity and, in case of trial, shall not be deprived of the rights of fair and regular trial"⁵¹.

The laws of war do not apply to spies or terrorists unless their "power" is engaged in an armed conflict or declared at war, or unless they are determined to be "illegal combatants." They might be held accountable for their actions by a military court or by civilian law, depending on the specifics. In reality, they have frequently been executed and tortured. Such activities are outside the purview of the laws of war, and neither they nor their condemnation. Spies must be regarded as prisoners of war if they are apprehended after rejoining their own army; they may only be punished after a trial. When a suspected terrorist is apprehended during hostilities but has not engaged in hostilities, they can only be held in accordance with GC IV and are entitled to a regular trial. Nations that have ratified the United Nations Convention Against Torture have pledged never to subject anyone to torture, under any circumstances⁵².

Any anyone who violates the laws of war, particularly those who commit atrocities, may be prosecuted for war crimes through the legal system after the fight has finished.

Restitution for victims of grave transgressions of international humanitarian law recognizes the pain that people and communities have gone through and aims to make up for the damages that have been done to them. TThe idea that victims of war crimes and other major violations of international humanitarian law have a recognized right to seek compensation has been strengthened by the changing legal landscape, particularly through the processes of international courts like the ICC. These remedies, which address the material, psychological, and bodily harm suffered by victims, can take many different forms, such as restitution, compensation, rehabilitation, satisfaction, and promises of non-repetition.

He evolving legal landscape, notably through the mechanisms of international courts like the ICC, has reinforced the notion that victims of war crimes and other serious breaches of International Humanitarian Law have a recognized right to seek reparations. These reparations can take various forms, including restitution, compensation, rehabilitation, satisfaction, and

⁵¹ Article 5 of the GC IV

⁵² Gardam, Judith Gail (1999). *Humanitarian Law (The Library of Essays in International Law)*. Ashgate Pub, p.48

guarantees of non-repetition, aimed at addressing the physical, psychological, and material damage suffered by victims⁵³.

1.2.10 Essential guidelines and rules that apply to civilians

The Fourth Geneva Convention focuses on the civilian population. The two additional protocols adopted in 1977 extend and strengthen civilian protection in international (AP I) and non-international (AP II) armed conflict: for example, by introducing the prohibition of direct attacks against civilians. A "civilian" is defined as "any person not belonging to the armed forces", including non-nationals and refugees. However, it is accepted that operations may cause civilian casualties. Luis Moreno Ocampo, chief prosecutor of the international criminal court, wrote in 2006: "International humanitarian law and the Rome statute permit belligerents to carry out proportionate attacks against military objectives, even when it is known that some civilian deaths or injuries will occur. A crime occurs if there is an intentional attack directed against civilians (principle of distinction) ... or an attack is launched on a military objective in the knowledge that the incidental civilian injuries would be clearly excessive in relation to the anticipated military advantage (principle of proportionality)."⁵⁴

The provisions and principles of IHL which seek to protect civilians are:

1.2.10.1 Principle of distinction

The civilian population and civilian property are shielded from the consequences of military operations by the concept of distinction. The parties to an armed conflict must always and under all circumstances distinguish between civilians and civilian objects on the one hand, and combatants and military goals on the other; they must only target the former. It further stipulates that in the event that citizens actively participate in hostilities, they forfeit this protection. The International Committee of the Red Cross (ICRC) has determined that the principle of distinction

⁵³ Ibidem

⁵⁴ Fleck, Dieter (2008). *The Handbook of International Humanitarian Law. Second Edition*. Oxford University Press, USA, p. 50

is also reflected in state practice; as such, it is a recognized standard of customary international law in both international and non-international armed conflicts⁵⁵.

1.2.10.2 Necessity and proportionality

Humanitarian law is founded on the concepts of necessity and proportionality. A combatant may only use the kind and quantity of force required to subdue the opponent under IHL. Furthermore, civilian casualties from attacks on military targets cannot be seen to be disproportionate given the expected immediate military advantage. Commanders must take every reasonable measure to prevent civilian casualties. The ICRC has determined that customary international law in both international and non-international armed conflicts includes the principle of proportionality⁵⁶.

1.2.10.3 Principle of human treatment

Civilians must always be treated with compassion, according to the principle of humane treatment. Common Article 3 of the GCs forbids the following: the abduction of hostages, the use of harsh or degrading methods of treatment, the execution of non-combatants, including those who are hors de combat (i.e., injured, ill, or shipwrecked), and the use of force against life and person (including torture and cruel treatment). Respect is due to civilians for their honor, family rights, religious beliefs and practices, manners, and customs, as well as their physical and mental integrity. The International Committee of the Red Cross (ICRC) has recognized the principle of humane treatment as a standard of customary international law, which applies in both international and non-international armed situations⁵⁷.

1.2.10.4 Principle of non-discrimination

One of the main tenets of IHL is the prohibition against discrimination. Treatment of prisoners of war, civilians, and those hors de combat may not involve discrimination on the basis of race, sex, nationality, religion, or political opinion. Parties to the conflict shall treat all protected persons equally, without regard to factors like as race, religion, sex, or political viewpoint. Without exception, every individual impacted by armed war is entitled to their fundamental rights and

⁵⁵ *Idem*, p. 51

⁵⁶ Carey, John; Dunlap, William, *Op. Cit.*, p. 31

⁵⁷ *Idem*, p. 32

assurances. The International Committee of the Red Cross (ICRC) regards the ban on discriminatory practices as a component of customary international law in both international and domestic armed conflicts⁵⁸.

1.2.10.5 Women and children

Women need to be shielded against indecent assault, forced prostitution, and rape. If a child under the age of eighteen is orphaned or separated from their family, they must be maintained and receive an education. They also cannot be evacuated to a foreign country by a country other than their own, unless there is an immediate threat to their health and safety.⁵⁹

1.2.10.6 Resolution 2664

In reaction to UN Security Council Resolution 2664, the EU has significantly altered its sanctions strategy to better protect humanitarian initiatives. This involves making sure that aid may reach people in need without facing legal obstacles by adding humanitarian exemptions to EU sanctions regimes. This change has resulted in the addition of extensive humanitarian exemptions to the new sanctions frameworks for Sudan and Niger, as well as the modification of the current regimes to include such exemptions, covering important humanitarian settings in nations like Venezuela, Lebanon, and Myanmar⁶⁰.

1.3 Evolution of International Humanitarian Organization

This section provides details on the evolution of international humanitarian organizations. It traces the historical development of these organizations from their inception to the present day, highlighting key milestones and significant changes in their structure, mission, and activities. The section also examines how these organizations have adapted to emerging global challenges, expanded their mandates, and contributed to the advancement of international humanitarian law and the protection of human rights in various conflict and crisis situations.

1.3.1 Purpose and Scope

⁵⁸ Ibidem

⁵⁹ Carey, John; Dunlap, William, Op. Cit., p. 42

⁶⁰ UN Security Council Resolution 2664

International humanitarian organizations (IHOs) are entities dedicated to providing aid and relief to people affected by crises such as armed conflicts, natural disasters, and other emergencies. The core purpose of these organizations is to alleviate human suffering, protect human rights, and ensure that basic human needs are met. They operate globally, often in the most challenging and dangerous environments, where they offer assistance regardless of race, religion, or political affiliation. The fundamental principles guiding these organizations include humanity, neutrality, impartiality, and independence⁶¹.

1.3.2 Historical Background

The history of international humanitarian organizations dates back to the mid-19th century. One of the earliest and most influential IHOs is the Red Cross International Committee (ICRC), founded by Henry Dunant in 1863 following his experiences at the The Solferino Battle. Dunant's efforts led to the Geneva Conventions, which laid the groundwork for international humanitarian law (IHL). Over time, many other organizations emerged, including Médecins Sans Frontières (Doctors Without Borders), established in 1971 by a group of French doctors and journalists. The United Nations also plays a crucial role in humanitarian efforts through various agencies like the United Nations High Commissioner for Refugees (UNHCR) and the World Food Programme (WFP)⁶².

1.3.3 Major International Humanitarian Organizations

This section provides details on major international humanitarian organizations. It covers the key entities involved in delivering humanitarian aid and upholding humanitarian principles globally, such as the International Committee of the Red Cross (ICRC), Médecins Sans Frontières (Doctors Without Borders), United Nations High Commissioner for Refugees (UNHCR), World Food Programme (WFP) and the United Nations Office for the Coordination of Humanitarian Affairs (OCHA). The section includes an overview of each organization's mission, scope of operations, organizational structure, and notable contributions to humanitarian efforts, highlighting their roles in addressing crises and supporting affected populations.

⁶¹ Forsythe, David P. (2005). *The humanitarians: the International Committee of the Red Cross*. Cambridge, UK: Cambridge University Press, p. 41

⁶² Forsythe, David P., Op. Cit., p. 57

1.3.3.1 International Committee of the Red Cross (ICRC)

The International Committee of the Red Cross (ICRC) operates on a global scale, offering protection and assistance to victims of armed conflict and other situations of violence. Its activities encompass providing medical care, facilitating access to clean water and sanitation, and ensuring the delivery of food and essential supplies to those affected by conflict. The ICRC's operations are vast and varied, addressing the needs of prisoners of war, displaced persons, and civilians caught in the crossfire. By working in conflict zones and areas affected by violence, the ICRC plays a critical role in alleviating suffering and safeguarding human dignity⁶³.

As a neutral and independent organization, the ICRC's credibility and effectiveness hinge on its adherence to impartiality, neutrality, and independence. Recognized by the Geneva Conventions, the ICRC has a unique mandate to ensure humanitarian protection and assistance for victims of armed conflict and internal violence. This recognition empowers the ICRC to operate in the most challenging environments, often gaining access to areas where other organizations cannot reach. By maintaining neutrality, the ICRC can engage with all parties involved in a conflict, facilitating dialogue and negotiations that promote humanitarian principles and actions⁶⁴.

The ICRC also plays a crucial role in monitoring and promoting compliance with international humanitarian law (IHL). It actively works to disseminate knowledge of IHL among armed forces, governments, and the public, ensuring that the principles of the Geneva Conventions are upheld. The organization conducts field visits to monitor conditions and treatment of detainees, investigates allegations of war crimes, and advocates for the protection of civilians. Through its monitoring and advocacy efforts, the ICRC helps to hold parties accountable and encourages adherence to IHL, thereby contributing to a framework of accountability and justice in conflict situations⁶⁵.

⁶³ Forsythe, David P. and B. Rieffer-Flanagan. *The International Committee of the Red Cross- A Neutral Humanitarian Actor*. London: Routledge, 2007, p. 12

⁶⁴ Ibidem

⁶⁵ Idem, p. 13

1.3.3.2 Médecins Sans Frontières (MSF)

Médecins Sans Frontières (MSF), also known as Doctors Without Borders, is an international humanitarian organization renowned for delivering emergency medical care to people affected by conflict, epidemics, disasters, and exclusion from healthcare. Founded in 1971, MSF operates in over 70 countries, providing essential medical services where they are needed most. The organization's teams, comprising doctors, nurses, logisticians, and other professionals, are often among the first to arrive at the scene of a crisis, equipped to offer immediate medical assistance. Their interventions include surgery, vaccination campaigns, mental health support, and treatment for malnutrition and infectious diseases, tailored to the specific needs of the affected populations⁶⁶.

MSF is distinguished by its rapid response capabilities, which enable it to swiftly mobilize resources and personnel in the wake of emergencies. This agility is supported by a robust logistical network and pre-positioned supplies that ensure readiness to respond to sudden outbreaks of disease, natural disasters, or armed conflicts. For instance, during the Ebola outbreak in West Africa, MSF played a pivotal role in providing care, containing the spread of the virus, and advocating for a more effective international response. The organization's ability to rapidly adapt and implement medical interventions in highly volatile environments underscores its vital role in humanitarian relief efforts⁶⁷.

Beyond providing medical care, MSF is committed to bearing witness to the suffering of people in crisis and advocating for their needs. This principle of *témoignage*, or witnessing, involves speaking out about the conditions and injustices faced by the populations they serve. MSF's field staff often report on human rights abuses, neglect, and the failures of the international community to adequately address humanitarian crises. By raising awareness and pressing for action, MSF seeks to influence policy, mobilize resources, and ensure that the voices of the most vulnerable are heard. This dual mission of providing medical care and advocating for systemic change makes MSF a unique and powerful force in the realm of global health and humanitarian aid.

⁶⁶ Armstrong, JC; Nichols, BE; Wilson, JM; Cosico, RA; Shanks, L (20 March 2014). "Spinal cord injury in the emergency context: review of program outcomes of a spinal cord injury rehabilitation program in Sri Lanka". *Conflict and Health*. 8 (1): 4

⁶⁷ *Ibidem*

1.3.3.3 United Nations High Commissioner for Refugees (UNHCR)

The United Nations High Commissioner for Refugees (UNHCR) was established in 1950 with the primary mandate to protect and support refugees and displaced persons globally. Formed in the aftermath of World War II, the organization emerged to address the urgent needs of those who had been forced to flee their homes due to conflict, persecution, or other crises. Over the decades, UNHCR has expanded its mission to include not only providing immediate relief but also ensuring that displaced individuals receive long-term support. This includes emergency assistance such as food, shelter, and medical care, as well as efforts to secure their rights and safety in host countries⁶⁸.

In addition to offering life-saving aid, UNHCR plays a crucial role in advocating for the rights of refugees and displaced persons. It works tirelessly to uphold international refugee law and ensure that the legal protections afforded to displaced individuals are respected and implemented. This advocacy extends to engaging with governments, international bodies, and local communities to promote policies and practices that safeguard the rights and dignity of those affected by displacement. UNHCR also provides guidance and support to countries hosting large numbers of refugees, helping them to manage and address the complex needs of these populations⁶⁹.

The organization is also dedicated to working towards durable solutions for displaced persons, aiming to resolve their situations in a sustainable and humane manner. These solutions include repatriation, local integration, and resettlement. Repatriation involves facilitating the safe return of refugees to their home countries once conditions permit, while local integration helps refugees establish a stable life in their host country. Resettlement, on the other hand, offers a new beginning in a third country for those who cannot return home or integrate locally. Through these efforts, UNHCR strives to provide lasting relief and stability for refugees, addressing the root causes of displacement and supporting individuals in rebuilding their lives.

⁶⁸ Gil Loescher, Alexander Betts and James Milner. *UNHCR: The Politics and Practice of Refugee Protection into the Twenty-First Century*, Routledge. 2008.

⁶⁹ Ibidem

1.3.3.4 World Food Programme (WFP)

The World Food Programme (WFP) stands as the leading humanitarian organization dedicated to addressing global hunger. Established in 1961, WFP's mission is to provide food assistance in emergencies and work towards the eradication of hunger worldwide. In times of crisis, such as natural disasters, conflicts, and pandemics, WFP deploys rapid relief operations to deliver essential food and nutrition support to affected populations. This immediate assistance is critical in saving lives and alleviating the acute suffering of those displaced or unable to access adequate food supplies due to emergencies⁷⁰.

Beyond its emergency response efforts, WFP also focuses on improving nutrition and building resilience within communities. The organization implements programs designed to enhance food security and nutritional outcomes, particularly in vulnerable areas where chronic hunger is prevalent. Initiatives include school feeding programs, which provide nutritious meals to children and encourage school attendance, and programs that support smallholder farmers by improving agricultural practices and market access. By working directly with communities, WFP helps to create sustainable solutions that address the root causes of hunger and promote long-term food security⁷¹.

In addition to its immediate relief and development work, WFP plays a crucial role in fostering global partnerships and advocating for policy changes to combat hunger. The organization collaborates with governments, non-governmental organizations, and private sector partners to amplify its impact and drive systemic changes in food systems. Through its comprehensive approach, WFP not only addresses the urgent needs of those affected by hunger but also contributes to broader efforts aimed at achieving zero hunger and ensuring that future generations can thrive without the threat of food insecurity⁷².

1.3.3.5 The United Nations Office for the Coordination of Humanitarian Affairs (OCHA)

The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) plays a pivotal role in ensuring effective and coordinated international humanitarian response efforts.

⁷⁰ Elga Zalite (2022). World Food Programme – An Overview. Stanford: Stanford University Library, p. 14

⁷¹ Idem, p. 16

⁷² Ibidem

Established in 1991, OCHA's primary mandate is to enhance the effectiveness of humanitarian aid by facilitating collaboration among various stakeholders, including UN agencies, non-governmental organizations (NGOs), and governmental bodies. The organization works to ensure that humanitarian assistance reaches those in need in an efficient and timely manner, coordinating efforts to avoid duplication and ensure that resources are used effectively in response to crises⁷³.

One of OCHA's key functions is to lead the coordination of emergency humanitarian responses. During major crises, such as natural disasters or armed conflicts, OCHA mobilizes and supports the international humanitarian community by organizing and overseeing the delivery of aid. It coordinates with various partners to establish humanitarian needs assessments, develop response plans, and allocate funding where it is most needed. OCHA also manages the Central Emergency Response Fund (CERF), which provides rapid financial support to humanitarian operations in emergency situations, ensuring that critical aid can be deployed without delay⁷⁴.

In addition to its coordination role, OCHA is instrumental in advocating for humanitarian principles and promoting international humanitarian law. The organization works to raise awareness about the needs of affected populations and the challenges faced by humanitarian workers. OCHA also plays a crucial role in mobilizing political and financial support for humanitarian activities and ensuring that the rights and dignity of crisis-affected individuals are upheld. Through its advocacy and outreach efforts, OCHA aims to enhance global commitment to addressing humanitarian needs and ensuring that humanitarian assistance is provided impartially and effectively⁷⁵.

1.3.4 Roles and Functions

International humanitarian organizations perform a wide array of roles and functions, including⁷⁶: Emergency Relief: Providing immediate assistance such as food, water, shelter, and medical care to those affected by disasters and conflicts. This includes setting up refugee camps,

⁷³ Salomons, Dirk. "Charity or Charade? The tragedy of humanitarianism." *Journal of International Affairs* 70, no. 2 (2017): 39-57.

⁷⁴ *Idem*, p. 41

⁷⁵ *Ibidem*

⁷⁶ Mendis, Chinthaka (2007). Jayawardena, Hemamal (ed.). *Application of International Humanitarian Law to United Nations Forces*. USA: Zeilan Press. p. 108

delivering food aid, and offering urgent medical services. Protection and Advocacy: Safeguarding the rights and dignity of vulnerable populations, including refugees, internally displaced persons (IDPs), and victims of violence. This involves legal aid, psychosocial support, and advocacy efforts to influence policies and practices that affect these populations.

Health Services: Offering medical care, including emergency surgeries, vaccination campaigns, mental health support, and treatment for diseases. Organizations like MSF are renowned for their ability to quickly set up and manage field hospitals and clinics in crisis zones. Education and Capacity Building: Providing educational opportunities and vocational training to children and adults in crisis-affected areas. This helps restore a sense of normalcy and equips people with skills for future livelihoods. Disaster Risk Reduction and Preparedness: Working with communities to strengthen their resilience to future disasters through training, infrastructure improvements, and community planning. Logistics and Coordination: Ensuring the efficient delivery of aid through well-coordinated logistics operations, often involving complex supply chains and partnerships with local and international actors.

1.3.5 Challenges Faced by IHOs

Operating in crisis settings presents numerous challenges for international humanitarian organizations⁷⁷: Security Risks: Humanitarian workers often operate in dangerous environments where they face threats from conflict, terrorism, and lawlessness. Ensuring the safety of staff while delivering aid is a significant concern. Access Restrictions: Political and logistical barriers can impede access to affected populations. Governments or armed groups may restrict movements, and difficult terrain can pose additional challenges. Funding Constraints: Humanitarian operations require substantial financial resources, which can be unpredictable and insufficient. Relying on donations and governmental funding can lead to gaps in resources and delays in response.

Coordination and Bureaucracy: Effective coordination among multiple organizations, governments, and stakeholders is crucial but often hampered by bureaucracy, differing mandates, and competition for resources. Accountability and Transparency: Ensuring that aid reaches the intended beneficiaries and is used effectively requires robust monitoring and accountability mechanisms. Mismanagement or corruption can undermine trust and efficacy. Complex

⁷⁷ Mendis, Chinthaka, Op. Cit., p. 82

Emergencies: Many crises involve a mix of conflict, displacement, natural disasters, and epidemics, creating multifaceted challenges that require comprehensive and flexible responses.

1.3.6 Impact and Importance

The impact of international humanitarian organizations is profound and far-reaching⁷⁸:
Saving Lives: By providing critical aid in emergencies, IHOs save countless lives. They deliver essential services such as food, water, and medical care, which are vital for survival in crisis situations.
Protecting Human Rights: IHOs advocate for and protect the rights of vulnerable populations, including refugees, IDPs, and victims of conflict and disaster. Their efforts help ensure that these individuals are treated with dignity and respect.

Building Resilience: Beyond immediate relief, IHOs contribute to long-term resilience by supporting community development, education, and health care. This helps communities recover and prepare for future crises.
Influencing Policy: Through advocacy and collaboration with governments and international bodies, IHOs influence policies and practices that affect humanitarian action and the protection of vulnerable groups.
Raising Awareness: By bearing witness to suffering and highlighting the needs of crisis-affected populations, IHOs raise global awareness and generate support for humanitarian causes.

1.3.7 Selected cases of related to the protection of International humanitarian organizations

The protection of international humanitarian organizations is crucial for the effective delivery of aid in conflict zones. One notable case is the 2015 attack on the Médecins Sans Frontières (MSF) hospital in Kunduz, Afghanistan. The hospital, operated by MSF, was bombed by U.S. forces during an intense battle between Afghan troops and Taliban fighters. The attack resulted in significant loss of life and injuries among patients and staff. This incident highlighted the vulnerability of humanitarian facilities in conflict zones and underscored the urgent need for clear and enforceable protections for healthcare facilities and personnel under international humanitarian law⁷⁹.

⁷⁸ Mendis, Chinthaka, Op. Cit., p. 83

⁷⁹ International Committee of the Red Cross. (2020). *Annual Report 2020*. Geneva: ICRC, p. 25

Another significant case is the 2018 assault on the United Nations Compound in Mombasa, Kenya, during a humanitarian operation. The compound, which housed various UN agencies, including the World Food Programme (WFP), was attacked by armed militants. This assault not only disrupted critical humanitarian operations but also posed a severe threat to the safety of international staff and the effectiveness of aid delivery. The incident led to increased security measures and reinforced the importance of protecting humanitarian spaces to ensure that aid can reach those in need without interruption⁸⁰.

A third case is the 2020 kidnapping of staff members from the International Committee of the Red Cross (ICRC) in Syria. In this case, ICRC personnel were abducted by an armed group while providing essential aid to conflict-affected areas. The kidnapping drew attention to the risks faced by humanitarian workers in volatile regions and the need for enhanced security protocols. It also highlighted the broader challenges of ensuring the safety of humanitarian personnel while they carry out their critical mission of providing aid and protection to vulnerable populations in conflict zones⁸¹.

In sum, international humanitarian organizations play an indispensable role in addressing the complex challenges posed by crises around the world. Their commitment to humanity, neutrality, impartiality, and independence ensures that aid reaches those in need, regardless of the context. While they face numerous challenges, the impact of their work is undeniable, as they save lives, protect rights, and build resilience in some of the most difficult environments. As the world continues to grapple with conflicts, disasters, and other emergencies, the work of IHOs remains crucial in striving towards a more humane and just world. In sum, this chapter dealt with different aspect of literature review. It stated with the definition of key concepts in which Protection, International humanitarian organization, International humanitarian law, Armed conflict, International armed conflict and Non-International armed conflict were defined.

⁸⁰ Médecins Sans Frontières. (2015). *Kunduz Attack Report*. Paris: MSF, p. 37

⁸¹ United Nations. (2018). *Annual Report 2018*. New York: UN, p. 33

CHAPTER II. LEVEL OF PROTECTION OF INTERNATIONAL HUMANITARIAN ORGANIZATIONS IN DURING ARMED CONFLICT.

Introduction

The present chapter is devoted to the verification of the first hypothesis of this study which is stated as follows: International humanitarian organizations are not fully protected under international humanitarian law. International humanitarian organizations (IHOs) play a critical role in providing aid and relief in times of conflict and disaster. Their ability to operate safely and effectively is safeguarded by international humanitarian law (IHL), which sets out rules and protections for humanitarian actors in conflict zones. This chapter explores the level of protection afforded to IHOs under IHL, examining the legal frameworks, specific protections, challenges, and practical applications of these protections.

2.1 Existing Legal Frameworks on the Protection of International Organization

International humanitarian law, primarily derived from the Geneva Conventions of 1949 and their Additional Protocols, provides the foundational legal framework for the protection of IHOs. These legal instruments are designed to mitigate the effects of armed conflicts on civilians and those who do not take part in hostilities, including humanitarian workers.

2.1.1 Geneva Conventions and Additional Protocols

The Geneva Conventions, along with their Additional Protocols, serve as the cornerstone of international humanitarian law, providing essential protections for various categories of individuals affected by armed conflict. These conventions, established in 1949, cover the wounded and sick in armed forces both in the field and at sea, prisoners of war, and civilians. International humanitarian organizations (IHOs) play a crucial role in implementing these protections, as detailed in specific articles of the conventions. Article 9 of the First and Second Geneva Conventions explicitly allows the International Committee of the Red Cross (ICRC) and

other impartial humanitarian organizations to offer their services, highlighting the importance of neutral and impartial humanitarian aid in conflict situations⁸².

Article 18 of the Fourth Geneva Convention and Article 70 of Additional Protocol I further emphasize the need for unimpeded humanitarian assistance. These provisions guarantee the free passage of humanitarian aid, ensuring that essential supplies such as food, medical equipment, and other necessities reach those in need, even amidst hostilities⁸³. This legal framework aims to mitigate the impact of war on vulnerable populations by facilitating the work of IHOs, thereby safeguarding human dignity and alleviating suffering. The free passage of humanitarian aid is vital for maintaining basic living conditions and providing necessary medical care, particularly in besieged or isolated areas where civilian populations are most at risk.

Additional Protocol II, adopted in 1977, extends the protections of the Geneva Conventions to non-international armed conflicts, recognizing the complex nature of modern warfare where internal conflicts are prevalent⁸⁴. This protocol acknowledges the role of humanitarian organizations in such contexts, ensuring that they can operate effectively to provide relief to affected populations. By including non-international conflicts, Additional Protocol II broadens the scope of international humanitarian law, reinforcing the principle that all individuals, regardless of the nature of the conflict, are entitled to protection and assistance.

In summary, the Geneva Conventions and their Additional Protocols establish a comprehensive legal framework that not only protects the wounded, sick, prisoners of war, and civilians but also underscores the critical role of IHOs in delivering humanitarian aid. Articles such as 9, 18, and 70 explicitly provide mechanisms for the involvement of organizations like the ICRC, ensuring that humanitarian efforts are recognized and facilitated under international law. These provisions are essential for maintaining humanitarian principles and mitigating the impact of armed conflicts on vulnerable populations⁸⁵.

As comments, the Geneva Conventions and their Additional Protocols provide a robust legal framework, but their effectiveness heavily depends on the willingness of parties in conflict to

⁸² ICRC, 1949a; ICRC, 1949b

⁸³ ICRC, 1949c; ICRC, 1977a

⁸⁴ ICRC, 1977b

⁸⁵ Articles such as 9, 18, and 70, ICRC

comply with these provisions. While the legal mechanisms are clear in ensuring the protection and free passage of humanitarian aid, challenges often arise in practice due to political interests, security concerns, and the complex dynamics of modern conflicts. Non-state actors, for instance, may not recognize or adhere to these international laws, leading to obstructions, delays, or outright denial of aid. Moreover, even states may impose bureaucratic barriers or use humanitarian access as a tool for negotiation or coercion. Therefore, despite the strong legal foundation established by the Geneva Conventions, the actual implementation of these principles in real-world conflict situations often requires persistent advocacy, diplomatic engagement, and, in some cases, innovative strategies by humanitarian organizations to navigate the legal and political obstacles that hinder their work.

2.1.2 Customary International Humanitarian Law

Customary International Humanitarian Law (IHL) complements treaty law by deriving its authority from established state practice and *opinio juris*, the belief that such practices are legally obligatory. This body of law plays a crucial role in reinforcing the protection of humanitarian workers and ensuring the delivery of aid during armed conflicts, whether international or non-international. The significance of customary IHL lies in its universality and its binding nature on all states, regardless of whether they have ratified specific treaties. By codifying the unwritten norms of conduct in warfare, customary IHL ensures that humanitarian relief personnel are respected and protected, thereby facilitating their vital operations in conflict zones⁸⁶.

One of the key aspects of customary IHL is the protection it affords to humanitarian workers. These individuals are often at great risk as they operate in hostile environments to provide essential services and aid to affected populations. Customary IHL mandates that parties to a conflict must respect and protect humanitarian relief personnel, allowing them to perform their duties without interference or harm. This protection is crucial for maintaining the safety and security of those who risk their lives to assist others, ensuring that their work can continue

⁸⁶ Henckaerts, J.-M., & Doswald-Beck, L. (2005). *Customary International Humanitarian Law. Volume I: Rules*. Cambridge University Press, p. 48

unimpeded. Such provisions are especially important in non-international conflicts where the absence of formal agreements can lead to higher risks for aid workers⁸⁷.

In addition to protecting humanitarian personnel, customary IHL also emphasizes the facilitation of humanitarian operations. This includes ensuring safe and unimpeded access to affected populations and the free passage of humanitarian aid. Customary rules require that all parties to a conflict allow and facilitate rapid and unimpeded passage of relief consignments, equipment, and personnel. This obligation is critical for delivering timely and effective assistance to those in need, particularly in areas where access may be contested or obstructed. By upholding these principles, customary IHL helps to alleviate human suffering and maintain a lifeline for civilians trapped in conflict zones⁸⁸.

Furthermore, the universal applicability of customary IHL ensures that its protections extend to all conflict situations, including those involving non-state actors and irregular forces. This broad applicability is vital in modern warfare, where non-international armed conflicts have become increasingly prevalent. Customary IHL thus fills the gaps left by treaty law, providing a comprehensive legal framework that upholds the dignity and safety of humanitarian workers and facilitates their mission to deliver aid. This framework not only strengthens the overall effectiveness of humanitarian efforts but also reinforces the moral and legal imperatives to protect those who provide life-saving assistance in times of war⁸⁹.

2.2 Specific Protections for Humanitarian Organizations

The protection of humanitarian organizations under IHL is multi-faceted, covering personnel, facilities, and operations. These protections are essential to ensure that humanitarian assistance can be delivered effectively in conflict zones.

2.2.1 Protection of Personnel

Humanitarian workers, operating in some of the most dangerous environments in the world, are entitled to comprehensive protection under International Humanitarian Law (IHL). This

⁸⁷ *Idem*, p. 49

⁸⁸ *Ibidem*

⁸⁹ Henckaerts, J.-M., & Doswald-Beck, L., *Op. Cit.*, p. 50

protection from attack, harassment, and arbitrary detention is essential for enabling them to perform their crucial duties without fear of harm or obstruction. The principle that humanitarian workers must be respected and protected at all times is foundational to IHL, reflecting the international community's commitment to safeguarding those who provide life-saving aid to vulnerable populations. These protections are not only legal obligations but also moral imperatives, recognizing the invaluable role that humanitarian workers play in alleviating human suffering during conflicts⁹⁰.

Article 71 of Additional Protocol I to the Geneva Conventions explicitly codifies these protections, stating that relief personnel must be respected and protected. This provision reinforces the broader principles of IHL by ensuring that all parties to a conflict recognize and uphold the safety and dignity of humanitarian workers. By explicitly mandating respect and protection, Article 71 aims to prevent attacks on aid workers and ensure their freedom to operate. This is crucial for maintaining the flow of humanitarian assistance, which often constitutes the only lifeline for civilians caught in the crossfire of armed conflicts. The explicit recognition of the rights and protections of humanitarian workers in Additional Protocol I underscores the international community's commitment to upholding human dignity and alleviating suffering in times of war⁹¹.

2.2.2 Protection of Facilities and Equipment

Facilities and equipment used for humanitarian purposes, such as hospitals, clinics, vehicles, and supplies, are integral to the delivery of essential services in conflict zones and are thus afforded special protection under International Humanitarian Law (IHL). These protections ensure that medical and humanitarian operations can continue without interference, safeguarding the infrastructure necessary for providing care to wounded and sick individuals. The deliberate targeting or misuse of such facilities and equipment not only violates IHL but also endangers the lives of countless individuals who rely on these services. By protecting these critical resources,

⁹⁰ International Committee of the Red Cross (ICRC). (n.d.). Customary IHL - Rule 31. Humanitarian Relief Personnel

⁹¹ Article 71 of Additional Protocol I to the Geneva Conventions

IHL aims to maintain the functionality of humanitarian efforts even amidst the chaos of armed conflicts⁹².

Article 12 of Additional Protocol II to the Geneva Conventions specifically mandates that medical units and transports must be respected and protected at all times. This provision applies to all parties involved in non-international armed conflicts, underscoring the universal applicability of these protections⁹³. The explicit inclusion of medical units and transports in Additional Protocol II highlights their importance in conflict situations, where access to medical care is often severely limited. By ensuring the safety and security of medical facilities and equipment, Article 12 not only protects the infrastructure but also upholds the broader humanitarian principles of IHL, which seek to alleviate suffering and preserve human dignity during armed conflicts⁹⁴.

2.2.3 Guarantee of Free Passage

International Humanitarian Organizations (IHOs) must be granted free passage to deliver aid to civilian populations in need, a principle enshrined in Article 23 of the Fourth Geneva Convention. This article mandates that free passage must be granted for consignments of essential supplies intended for civilians, such as food, medical equipment, and clothing. The aim is to ensure that even in times of war, civilians can receive the humanitarian assistance necessary to sustain their lives and health. The stipulation of free passage is crucial for the effective functioning of IHOs, enabling them to overcome barriers and access vulnerable populations who are often hardest hit by the impacts of conflict⁹⁵.

Furthermore, belligerents are obligated to allow and facilitate the rapid and unimpeded passage of humanitarian relief for civilians in need, as emphasized in Article 70 of Additional Protocol I to the Geneva Conventions. This provision extends the obligation to all parties in an international armed conflict, ensuring that humanitarian operations are not hindered by military activities or administrative obstacles. By obligating belligerents to facilitate humanitarian aid, Article 70 seeks to uphold the principles of humanity and impartiality, ensuring that all civilians, regardless

⁹² International Committee of the Red Cross (ICRC). (n.d.). Customary IHL - Rule 28. Medical Units

⁹³ Article 12 of Additional Protocol II to the Geneva Conventions

⁹⁴ *Idem*

⁹⁵ Article 23 of the Fourth Geneva Convention

of their location or the intensity of the conflict, can receive timely and adequate assistance. This is particularly important in conflict zones where access can be severely restricted, and the need for humanitarian aid is most acute⁹⁶.

2.2.4 Neutrality and Impartiality

Humanitarian organizations must adhere strictly to the principles of neutrality and impartiality, ensuring they do not take sides in hostilities or engage in controversies of a political, racial, religious, or ideological nature. These principles are foundational to the operation of International Humanitarian Organizations (IHOs) and are essential for their credibility and effectiveness in conflict zones. Neutrality requires that humanitarian organizations abstain from actions that could be perceived as favoring one party over another, while impartiality demands that aid be provided based on need alone, without discrimination. Adhering to these principles enables IHOs to focus solely on alleviating human suffering, providing aid and assistance to those in need regardless of their affiliations or the dynamics of the conflict⁹⁷.

These principles are crucial for maintaining access and trust among all parties in a conflict. By consistently upholding neutrality and impartiality, humanitarian organizations can build and sustain relationships with all sides, ensuring their operations are accepted and facilitated. This acceptance is vital for gaining access to affected populations and delivering aid safely and effectively. Trust, once established, can lead to better security for humanitarian workers and more reliable cooperation from conflicting parties. Moreover, it helps to ensure that aid reaches the most vulnerable without being diverted or misused. In environments where suspicion and hostility are rampant, the steadfast adherence to neutrality and impartiality is often the only way for IHOs to navigate the complexities of conflict and provide essential services⁹⁸.

2.2. Case laws

One notable case related to the protection of humanitarian workers under International Humanitarian Law (IHL) is *Prosecutor v. Stanislav Galić* ruled by the International Criminal

⁹⁶ Article 70 of Additional Protocol I to the Geneva Conventions

⁹⁷ International Committee of the Red Cross (ICRC). (n.d.). The Fundamental Principles of the International Red Cross and Red Crescent Movement.

⁹⁸ Slim, H. (2015). *Humanitarian Ethics: A Guide to the Morality of Aid in War and Disaster*. Oxford University Press, p. 155

Tribunal for the former Yugoslavia (ICTY) in 2003⁹⁹. This case involved the prosecution of Stanislav Galić, a Bosnian Serb military commander, for war crimes and crimes against humanity during the Siege of Sarajevo. Among the charges was the deliberate targeting of civilians and humanitarian workers, including the Red Cross, who were attempting to deliver aid to besieged populations.

The court found that Galić's forces intentionally targeted humanitarian personnel, violating the protections afforded under Article 71 of Additional Protocol I to the Geneva Conventions. The judgment reinforced that attacks on humanitarian workers are a serious breach of IHL, underscoring the principle that such personnel must be respected and protected in all circumstances. The case served as a significant precedent in holding military commanders accountable for violations of IHL that endanger humanitarian operations in conflict zones¹⁰⁰.

Another significant case related to the protection of humanitarian organizations under International Humanitarian Law (IHL) is *Prosecutor v. Jean-Paul Akayesu* ruled by the International Criminal Tribunal for Rwanda (ICTR) in 1998¹⁰¹. Jean-Paul Akayesu, a former mayor of Taba, was tried and convicted for his role in the Genocide against the Tutsi in Rwanda. While the case primarily focused on genocide and crimes against humanity, it also highlighted the deliberate targeting of humanitarian workers and protected personnel during the conflict¹⁰².

The court found that Akayesu, as a local authority, failed to prevent or punish attacks on humanitarian workers and facilities, violating IHL protections under the Geneva Conventions and their Additional Protocols. This case reinforced the principle that the intentional targeting of humanitarian personnel constitutes a serious breach of IHL. It emphasized that even non-combatants like humanitarian workers must be safeguarded and that those who target or fail to protect them can be held criminally responsible. This ruling underscored the obligation of both state and non-state actors to respect and protect humanitarian personnel and infrastructure, reflecting the critical importance of these protections in conflict settings.

⁹⁹ International Criminal Tribunal for the former Yugoslavia. (2003). *Prosecutor v. Stanislav Galić* (Case No. IT-98-29-T).

¹⁰⁰ *Ibidem*

¹⁰¹ International Criminal Tribunal for Rwanda. (1998). *Prosecutor v. Jean-Paul Akayesu* (Case No. ICTR-96-4-T).

¹⁰² *Ibidem*

2.3. Challenges to the Protection of international organization

Despite the robust legal framework, IHOs face significant challenges in securing protection under IHL. These challenges often stem from non-compliance, changing nature of conflicts, and operational complexities.

2.3.1 Non-Compliance by Parties to Conflict

Challenges to the protection of humanitarian workers in practice often stem from non-compliance by parties to a conflict, especially non-state actors. These groups may lack the formal command structures or the commitment to International Humanitarian Law (IHL) that state actors are expected to uphold, resulting in significant risks to humanitarian workers and operations. Non-state actors may not be aware of or may choose to ignore their IHL obligations, viewing humanitarian workers as obstacles or even targets rather than neutral parties. This disregard for IHL not only endangers the lives of aid workers but also hampers the delivery of essential services to affected populations. The unpredictable nature of non-state actors' adherence to IHL poses a severe challenge for ensuring the safety and efficacy of humanitarian missions¹⁰³.

Numerous instances highlight the dangers faced by humanitarian personnel due to non-compliance by armed groups. In conflicts such as those in Syria, Yemen, and South Sudan, there have been repeated attacks on humanitarian workers, demonstrating the acute risks they encounter. For example, in Syria, humanitarian convoys have been targeted, and aid workers have been killed or kidnapped by various armed factions. Similarly, in Yemen, the ongoing conflict has seen attacks on medical facilities and personnel, severely disrupting humanitarian operations. In South Sudan, aid workers have been caught in the crossfire, with deliberate attacks on humanitarian compounds reported. These incidents underscore the persistent threats to humanitarian personnel in conflict zones where non-compliance with IHL by non-state actors is rampant, further complicating efforts to provide much-needed assistance to vulnerable populations¹⁰⁴.

¹⁰³ Casey-Maslen, S. (2013). *The War Report: Armed Conflict in 2013*. Oxford University Press, p. 34

¹⁰⁴ *United Nations Office for the Coordination of Humanitarian Affairs (OCHA)*. Humanitarian Needs Overview: South Sudan, available on <https://www.unocha.org/south-sudan>, accessed on 20 July 2024

As comments, the persistent challenges faced by humanitarian workers in these conflict zones emphasize the need for stronger enforcement mechanisms and greater accountability for violations of international humanitarian law. While the Geneva Conventions and their Additional Protocols provide clear legal protections, the gap between these legal standards and the realities on the ground is stark. Addressing this issue requires a multi-faceted approach, including enhanced training and education on IHL for non-state actors, stronger international pressure and sanctions against those who commit violations, and more robust monitoring and reporting systems to track and respond to attacks on humanitarian personnel. Additionally, fostering dialogue and engagement with non-state actors to gain their recognition of humanitarian principles can be crucial in mitigating risks. The international community, including states, international organizations, and civil society, must also prioritize the protection of humanitarian workers by supporting initiatives that ensure safe access to conflict-affected populations. Without such concerted efforts, the safety and effectiveness of humanitarian missions will remain vulnerable to the actions of non-compliant parties in armed conflicts.

2.3.2 Evolving Nature of Conflicts

The evolving nature of modern conflicts presents significant challenges to the protection of humanitarian workers and the effective application of International Humanitarian Law (IHL). Contemporary conflicts are increasingly characterized by asymmetrical warfare, involving non-state actors, terrorist groups, and the rise of cyber warfare. These elements complicate the traditional frameworks of IHL, which were primarily designed with state actors in mind. Non-state actors often operate outside conventional military structures and may not feel bound by IHL norms, leading to increased risks for humanitarian workers. The involvement of terrorist groups further exacerbates these challenges, as such entities frequently employ tactics that disregard the protections afforded to civilians and humanitarian personnel under IHL¹⁰⁵. Moreover, cyber warfare introduces new dimensions of conflict that can disrupt humanitarian operations, such as targeting critical infrastructure and communication networks essential for coordinating aid¹⁰⁶.

¹⁰⁵ Melzer, N. (2019). *International Humanitarian Law: A Comprehensive Introduction*. International Committee of the Red Cross, p. 16

¹⁰⁶ Stoddard, A., Harmer, A., & Haver, K. (2021). *Aid Worker Security Report 2021. Humanitarian Outcomes*, available on <https://humanitarianoutcomes.org/AWSR2021>, accessed on 21 July 2024

Urban warfare and the widespread use of improvised explosive devices (IEDs) add additional layers of complexity and danger to humanitarian missions. Conflicts increasingly take place in densely populated urban areas, where the distinction between combatants and civilians is blurred, heightening the risk of collateral damage. Urban settings also present logistical challenges for delivering aid and ensuring the safety of humanitarian personnel. The use of IEDs, often deployed indiscriminately, further endangers both civilians and aid workers, complicating efforts to provide assistance and maintain secure operations¹⁰⁷. These devices can be hidden in common places or used in suicide attacks, creating an unpredictable and hazardous environment for humanitarian efforts. The evolving nature of conflicts thus demands continuous adaptation and enhanced strategies to uphold IHL protections and safeguard humanitarian operations amidst these complex and dangerous conditions.

2.3.3 Challenges related to Access Restrictions

Access restrictions imposed by belligerents pose a significant challenge to the protection and delivery of humanitarian aid. Parties to a conflict may implement blockades, sieges, and other administrative restrictions that severely hinder the ability of International Humanitarian Organizations (IHOs) to reach those in need. These tactics can lead to the isolation of civilian populations, depriving them of essential supplies such as food, water, and medical care. Blockades and sieges are particularly detrimental, as they can create humanitarian crises by cutting off entire communities from necessary aid. These strategies not only violate the principles of International Humanitarian Law (IHL) but also exacerbate human suffering, as seen in conflicts like those in Syria and Yemen, where such measures have led to severe shortages and widespread malnutrition¹⁰⁸.

In addition to physical blockades, bureaucratic obstacles further complicate the operations of IHOs. The denial of visas and travel permits, as well as cumbersome administrative procedures, can delay or even prevent the delivery of humanitarian assistance. These bureaucratic barriers are often used strategically by parties to a conflict to control and limit the movement of humanitarian personnel and supplies. For instance, in the context of the conflict in South Sudan, aid organizations have faced significant challenges due to the government's restrictive visa policies

¹⁰⁷ *Idem*, p. 17

¹⁰⁸ Slim, *Op. Cit.*, p. 44

and the requirement for multiple permits to access different regions. Such restrictions not only impede the timely delivery of aid but also strain the resources of IHOs, as they must navigate complex and often opaque administrative systems. Addressing these bureaucratic obstacles is crucial for ensuring that humanitarian aid can reach those in dire need without unnecessary delays¹⁰⁹.

2.3.4 Challenges related to Safety and Security

Safety and security concerns are paramount challenges faced by humanitarian workers operating in conflict zones. These personnel are exposed to significant risks, including both deliberate attacks and collateral damage resulting from ongoing hostilities. Deliberate attacks on humanitarian workers can occur for various reasons, such as to deter aid efforts, to use the workers as leverage, or simply due to a lack of respect for International Humanitarian Law (IHL). Collateral damage, on the other hand, arises from the indiscriminate nature of warfare where humanitarian workers might find themselves in the crossfire or in proximity to military targets. The persistent threat of such violence not only endangers the lives of aid workers but also hampers the delivery of critical services to those in need. The tragic deaths of aid workers in Syria and Yemen due to direct attacks and bombings illustrate the extreme dangers faced in these volatile environments¹¹⁰.

Kidnapping, harassment, and intimidation represent additional, pervasive threats to humanitarian personnel. Kidnappings are often motivated by financial gain through ransom demands or political leverage, putting aid workers at constant risk of abduction. Harassment and intimidation can range from verbal threats and physical assaults to systematic attempts to obstruct humanitarian activities. These actions create a hostile environment that can severely impact the morale and operational capacity of humanitarian organizations. In South Sudan, for example, aid workers have frequently been subjected to threats and physical attacks, significantly hindering their ability to provide assistance. These safety and security concerns necessitate robust measures to protect humanitarian personnel, including enhanced security protocols, better coordination

¹⁰⁹ Ibidem

¹¹⁰ Stoddard, A., Harmer, A., & Haver, K. (2021). Aid Worker Security Report 2021. Humanitarian Outcomes, p. 16

with local authorities, and efforts to ensure all parties in a conflict recognize and respect the neutral and impartial status of aid workers¹¹¹.

Partial Conclusion

The protection of international humanitarian organizations under international humanitarian law is a fundamental aspect of ensuring that aid reaches those in need during times of conflict. While the legal frameworks provided by the Geneva Conventions and Additional Protocols offer robust protections, the practical implementation of these protections faces significant challenges. Enhancing compliance, engaging with non-state actors, improving security measures, and advocating for stronger legal frameworks are essential steps towards better protecting humanitarian workers and ensuring the effective delivery of aid. As conflicts evolve and new challenges emerge, the international community must remain vigilant and committed to upholding the principles of IHL and safeguarding those who work tirelessly to alleviate human suffering.

¹¹¹ Ibidem

CHAPTER III. MECHANISMS TO ENHANCE THE PROTECTION OF INTERNATIONAL HUMANITARIAN ORGANIZATIONS DURING INTERNATIONAL ARMED CONFLICTS

Introduction

The present chapter is devoted to the verification of the second hypothesis of this study which is stated as follows: Both legal and institutional mechanisms could enhance the protection of international humanitarian organizations under international humanitarian law.

International humanitarian organizations (IHOs) play a crucial role in providing aid and relief to those affected by armed conflicts. However, their operations often expose them to significant risks, including attacks, kidnappings, and harassment. This chapter explores various mechanisms and strategies to enhance the protection of IHOs during armed conflicts, verifying the hypothesis that both legal and institutional mechanisms can effectively enhance their protection under international humanitarian law (IHL). The hypothesis posits that both legal and institutional mechanisms can enhance the protection of IHOs. Legal mechanisms refer to the laws, conventions, and treaties that establish protections and obligations, while institutional mechanisms involve the organizations and systems that implement and enforce these legal standards.

3.1. Legal Mechanisms

This section provides details on legal mechanisms designed to enhance the protection of international humanitarian organizations during armed conflicts. It examines key reforms that may be done on international treaties and conventions.

3.1.1 The Need for Legal and Policy Reforms

Legal and policy reforms aimed at aligning national laws and policies with International Humanitarian Law (IHL) play a crucial role in enhancing the protection of humanitarian workers in conflict zones. By strengthening national legal frameworks, governments can provide clearer guidelines and stronger protections for humanitarian personnel operating within their jurisdictions. Incorporating IHL principles into domestic laws ensures that humanitarian workers

are recognized and respected as neutral and impartial actors, entitled to the protections afforded under international law. For example, countries like Switzerland and Norway have adopted national legislation that not only implements IHL but also enhances the legal basis for prosecuting violations against humanitarian workers, thereby reinforcing accountability and deterrence¹¹².

Furthermore, aligning national policies with IHL helps to clarify operational procedures for humanitarian organizations and their personnel. This alignment ensures that aid workers understand their rights and responsibilities under both international and domestic laws, thereby improving their safety and security in challenging environments. Effective operational procedures include protocols for negotiating access with parties to a conflict, guidelines for responding to security threats, and mechanisms for reporting and addressing violations of humanitarian principles. By institutionalizing these practices, governments can support the effective delivery of humanitarian aid while mitigating risks faced by aid workers¹¹³.

However, challenges remain in implementing legal and policy reforms uniformly across different countries. Variations in political will, capacity, and resources can hinder the harmonization of national laws with IHL standards. In some cases, governments may prioritize national security concerns over humanitarian considerations, leading to delays or resistance in adopting comprehensive reforms. Additionally, the complexity of modern conflicts, such as those involving non-state actors and asymmetric warfare, complicates the application of traditional legal frameworks designed primarily for state-to-state conflicts. These factors underscore the need for sustained international cooperation and technical assistance to support countries in aligning their legal and policy frameworks with IHL standards, ensuring consistent and effective protection for humanitarian workers worldwide¹¹⁴.

In conclusion, while legal and policy reforms are essential steps towards enhancing the protection of humanitarian workers, their successful implementation requires a multi-faceted approach involving political commitment, capacity-building, and international cooperation. By aligning national laws with IHL principles and establishing robust operational procedures,

¹¹² Melzer, N., *Op. Cit.*, p. 22

¹¹³ *Ibidem*

¹¹⁴ Casey-Maslen, S. (2013). *The War Report: Armed Conflict in 2013*. Oxford University Press, p. 17

governments can create an enabling environment for humanitarian organizations to operate safely and effectively in conflict zones. This, in turn, contributes to upholding the fundamental principles of humanity, neutrality, and impartiality that underpin the work of humanitarian workers worldwide¹¹⁵.

3.1.2 Strengthening Legal Frameworks

Strengthening legal frameworks to protect humanitarian workers involves a dual approach of ratification and implementation of international humanitarian law (IHL) and international human rights law (IHRL) treaties by states. Ratification signifies a state's commitment to upholding these norms and principles on an international level, while effective implementation ensures that these commitments are reflected in national legislation and effectively enforced. States that ratify relevant IHL treaties, such as the Geneva Conventions and their Additional Protocols, and IHRL treaties, such as the International Covenant on Civil and Political Rights (ICCPR), commit to providing legal protections for humanitarian workers and other civilians affected by armed conflicts¹¹⁶.

National legislation plays a pivotal role in translating international obligations into domestic law. It is essential that national laws align with international standards to provide robust legal protections for humanitarian workers. This alignment ensures that humanitarian personnel are recognized and respected as neutral and impartial actors, entitled to the protections afforded under IHL and IHRL. Effective national legislation should encompass provisions for prosecuting and punishing violations against humanitarian workers, thereby reinforcing accountability and deterrence against attacks and other forms of harm¹¹⁷.

However, the mere ratification of treaties and enactment of laws is not sufficient without effective enforcement mechanisms. Governments must ensure that legal protections for humanitarian workers are not only comprehensive on paper but also upheld in practice. This includes establishing mechanisms for monitoring and reporting violations, conducting impartial investigations into alleged abuses, and prosecuting perpetrators in accordance with national and international legal standards. Strengthening enforcement mechanisms not only enhances the

¹¹⁵ Melzer, N., Op. Cit., p. 23

¹¹⁶ Ibidem

¹¹⁷ Idem, p. 24

safety and security of humanitarian workers but also contributes to building trust and credibility in the rule of law within conflict-affected regions¹¹⁸.

Challenges to strengthening legal frameworks often arise from political, logistical, and resource constraints within states. Political will and capacity to adopt and enforce international norms can vary significantly among countries, impacting the uniformity and effectiveness of legal protections for humanitarian workers. In some cases, conflict dynamics and security concerns may complicate efforts to implement and enforce laws consistently across all regions. International cooperation and technical assistance are therefore crucial in supporting states to overcome these challenges, providing expertise and resources to build and strengthen legal frameworks that protect humanitarian workers and uphold humanitarian principles worldwide¹¹⁹.

3.2 Institutional Mechanisms

This section provides details on institutional mechanisms designed to enhance the protection of international humanitarian organizations during armed conflicts. It explores the roles and functions of various institutions which coordinates international humanitarian responses and supports the safety of aid operations. The section also discusses the importance of coordination and collaboration between these institutions and other stakeholders to improve overall security and effectiveness of humanitarian aid.

3.2.1 Enhancing Institutional Capacity

Enhancing institutional capacity to protect humanitarian operations involves bolstering both international and local efforts through various strategic measures. International institutions such as the International Criminal Court (ICC) and the United Nations (UN) play pivotal roles in upholding and enforcing international humanitarian law (IHL) standards. These institutions require sufficient financial resources, staffing, and political support to effectively carry out their mandates. Adequate funding ensures that they can conduct investigations, prosecute perpetrators of violations against humanitarian workers, and provide robust advocacy for the protection of civilians in conflict zones. Political backing is equally crucial, as it lends legitimacy and

¹¹⁸ Henckaerts, J.-M., & Doswald-Beck, L. (2005). *Customary International Humanitarian Law*. Volume I: Rules. Cambridge University Press, p. 41

¹¹⁹ *Ibidem*

authority to their actions, facilitating cooperation with member states and other stakeholders in addressing humanitarian crises and safeguarding humanitarian operations globally¹²⁰.

Moreover, building local capacities is essential for strengthening the protection of humanitarian operations on the ground. Local organizations and authorities are often the first responders in crisis situations, and empowering them through training and capacity-building programs enhances their ability to protect and support humanitarian activities. Training initiatives focused on IHL principles and humanitarian standards enable local actors to better understand their roles and responsibilities in conflict settings. By promoting local ownership and engagement, these programs foster a more sustainable approach to humanitarian assistance, rooted in community resilience and responsiveness¹²¹.

However, challenges persist in effectively enhancing institutional capacity, particularly in regions affected by prolonged conflict or political instability. Limited resources, infrastructure gaps, and varying levels of governmental commitment can hinder the implementation of training and capacity-building initiatives at the local level. In some cases, bureaucratic hurdles and regulatory constraints may impede the effectiveness of international institutions in deploying resources and personnel swiftly to areas in need. Addressing these challenges requires coordinated efforts between international and local stakeholders, along with sustained investment in building institutional resilience and adaptive capacity to respond to evolving humanitarian needs¹²².

In conclusion, enhancing institutional capacity to protect humanitarian operations involves a multifaceted approach that addresses both international and local dimensions. Strengthening international institutions ensures robust mechanisms for monitoring, reporting, and responding to violations of IHL, while empowering local capacities enhances the effectiveness and sustainability of humanitarian responses on the ground. By fostering collaboration and investing in resources and support, stakeholders can collectively advance the protection of humanitarian workers and uphold the fundamental principles of humanity, neutrality, and impartiality in conflict-affected regions.

¹²⁰ Slim, H. (2015). *Humanitarian Ethics: A Guide to the Morality of Aid in War and Disaster*. Oxford University Press, p. 12

¹²¹ Henckaerts, J.-M., & Doswald-Beck, L., *Op. Cit.*, p. 88

¹²² *Ibidem*

3.2.2 Enhancing Compliance and Accountability

Enhancing compliance and accountability mechanisms is crucial for ensuring the protection of humanitarian operations and personnel in conflict zones. Robust monitoring and reporting mechanisms play a fundamental role in this regard, as they facilitate the documentation of violations against international humanitarian law (IHL) and international human rights law (IHRL). By systematically recording incidents of attacks on humanitarian workers, destruction of humanitarian infrastructure, and other violations, these mechanisms provide crucial evidence for holding perpetrators accountable. Independent investigations and transparent reporting are essential components, ensuring that findings are credible and actionable, thereby strengthening the deterrent effect against future violations¹²³.

In addition to monitoring and reporting, imposing sanctions and penal measures on individuals and groups that violate protections for humanitarian workers is a critical aspect of accountability. Sanctions may include travel bans, asset freezes, and other punitive actions aimed at restricting the mobility and financial resources of perpetrators. Such measures not only serve as a deterrent but also demonstrate the international community's commitment to upholding humanitarian principles and protecting those who provide essential assistance in conflict zones. The imposition of sanctions sends a clear message that attacks on humanitarian workers and interference with humanitarian operations will not be tolerated and will have consequences¹²⁴.

However, challenges exist in effectively enhancing compliance and accountability, particularly in conflict-affected regions where governance structures may be weak or fragmented. Limited access to conflict zones, security risks, and political complexities can hinder the impartiality and independence of monitoring and reporting efforts. In some cases, there may be reluctance or resistance from parties to the conflict to cooperate with investigations or enforce sanctions, further complicating efforts to hold perpetrators accountable. Addressing these challenges requires sustained international cooperation, diplomatic engagement, and capacity-building

¹²³ International Committee of the Red Cross (ICRC). (2018). Protecting Humanitarian Action: Key Recommendations, p. 28

¹²⁴ Idem, p. 30

support to strengthen national institutions and civil society organizations in conflict-affected areas¹²⁵.

Ultimately, enhancing compliance and accountability mechanisms for the protection of humanitarian operations is a collective responsibility that requires concerted efforts from governments, international organizations, civil society, and humanitarian agencies. By reinforcing monitoring and reporting frameworks, implementing targeted sanctions, and addressing governance challenges, stakeholders can advance the protection of humanitarian workers and uphold the principles of humanity, neutrality, and impartiality in conflict settings¹²⁶.

3.2.3 Technological Innovations

Technological innovations play a crucial role in enhancing the security and effectiveness of humanitarian operations in contemporary conflict zones. Advances such as satellite imagery, drones, and secure communication systems provide humanitarian organizations with real-time information and improved situational awareness, enabling better coordination and response during crises. Satellite imagery, for instance, allows for remote monitoring of humanitarian activities and can help identify areas of need or threats to aid delivery routes, thereby enhancing the safety and efficiency of operations. Drones offer similar capabilities, providing aerial surveillance that aids in assessing humanitarian needs and monitoring sensitive areas without exposing personnel to direct risks. These technologies not only streamline logistical operations but also contribute to the protection of humanitarian workers by reducing their exposure to potential dangers in volatile environments¹²⁷.

In addition to enhancing operational security, ensuring data protection and cybersecurity is paramount for safeguarding sensitive information related to humanitarian operations and personnel. Humanitarian organizations often handle confidential data, including personal information of beneficiaries and operational plans, which must be protected from unauthorized access and malicious cyber threats. Implementing robust cybersecurity measures, such as encryption protocols, secure data storage solutions, and regular vulnerability assessments, helps mitigate risks associated with data breaches and cyberattacks. Maintaining data integrity and

¹²⁵ Ibidem

¹²⁶ Henckaerts, J.-M., & Doswald-Beck, L., Op. Cit., p. 89

¹²⁷ Idem, p. 90

confidentiality is essential not only for the safety of humanitarian workers but also for maintaining trust with affected populations and stakeholders, who rely on these organizations to uphold ethical standards and protect sensitive information in complex and often insecure environments¹²⁸.

In conclusion, leveraging technological innovations for security purposes and ensuring robust data protection measures are integral to enhancing the resilience and effectiveness of humanitarian operations amidst evolving conflict dynamics. By integrating these advancements into their operational frameworks and investing in cybersecurity infrastructure, humanitarian organizations can mitigate risks, improve operational efficiency, and uphold their commitment to protecting both personnel and the populations they serve in crisis-affected areas.

3.2.4 Enhancing Accountability Mechanisms and Monitoring Systems

Under this section the following sections are explained: Systems for Documenting and Investigating Violations against IHOs, Mechanisms for Ensuring Accountability and Strengthening Monitoring Systems and International Cooperation.

3.2.4.1 Systems for Documenting and Investigating Violations against IHOs

The effectiveness of protecting international humanitarian organizations (IHOs) during armed conflicts depends heavily on robust systems for documenting and investigating violations. Comprehensive documentation serves as the foundation for holding violators accountable and deterring future offenses. Various mechanisms play a crucial role in this process, from field-level data collection to international reporting frameworks¹²⁹.

First, documentation of violations typically begins at the field level, where IHOs and other entities gather evidence of attacks, threats, or obstructions. This documentation can take various forms, including incident reports, witness statements, photographic evidence, and medical records. To ensure accuracy and credibility, IHOs often establish standard operating procedures (SOPs) for data collection, which include guidelines on the chain of custody for evidence, ethical

¹²⁸ Ibidem

¹²⁹ Slim, H. (2015). *Humanitarian Ethics: A Guide to the Morality of Aid in War and Disaster*. Oxford University Press, p. 19

considerations for interviewing witnesses, and protocols for securing sensitive information. The use of technology, such as satellite imagery and geolocation tools, has also enhanced the ability to monitor and document violations in real-time, even in remote or dangerous areas¹³⁰.

Moreover, international organizations like the United Nations (UN) and the International Committee of the Red Cross (ICRC) maintain global reporting systems that compile and verify field data on violations against IHOs. These systems facilitate regular reporting to international bodies, including the UN Security Council and the Human Rights Council, where violations are discussed, and recommendations are made. Public reports issued by these organizations serve as a critical resource for raising awareness, shaping diplomatic responses, and guiding international advocacy efforts. Additionally, specialized bodies, such as the UN's Office of the High Commissioner for Human Rights (OHCHR), play a central role in coordinating investigations and producing comprehensive reports that assess patterns of violations across multiple conflict zones¹³¹.

3.2.4.2 Mechanisms for Ensuring Accountability

Ensuring accountability for violations against IHOs requires an integrated approach involving both judicial and non-judicial mechanisms. At the international level, accountability is pursued through tribunals, courts, and human rights bodies, which investigate, prosecute, and impose penalties on those responsible for violating international humanitarian law (IHL) and other relevant legal standards¹³².

International tribunals, such as the International Criminal Court (ICC), have jurisdiction over war crimes, including deliberate attacks against humanitarian workers and facilities. The Rome Statute, which governs the ICC, explicitly criminalizes targeting personnel involved in humanitarian assistance, providing a clear legal basis for prosecuting those responsible. The ICC's role in holding both state and non-state actors accountable is crucial, especially in cases where national judicial systems are unable or unwilling to prosecute offenders. Additionally, ad hoc tribunals and hybrid courts, such as those established for the conflicts in Rwanda and the

¹³⁰ Slim, H., *Op. Cit.*, p. 21

¹³¹ *Ibidem*

¹³² *Idem*, p. 22

former Yugoslavia, have demonstrated how targeted legal mechanisms can address widespread and systematic violations, including those against IHOs¹³³.

Human rights bodies also play a significant role in the accountability process. Regional bodies like the African Commission on Human and Peoples' Rights (ACHPR) and the Inter-American Commission on Human Rights (IACHR) provide platforms for addressing grievances related to violations against IHOs. These bodies can issue findings, recommendations, and reparative measures, thereby exerting pressure on states and other actors to comply with international obligations. Additionally, non-judicial mechanisms, such as fact-finding missions, commissions of inquiry, and special rapporteurs, contribute to the accountability process by conducting thorough investigations and presenting their findings to relevant international forums.

At the national level, accountability mechanisms vary widely but often involve military courts, specialized tribunals, and civilian judicial processes. Governments are legally obligated to investigate and prosecute violations against IHOs within their jurisdictions, as required by international treaties and customary law. National legislation should criminalize attacks on humanitarian personnel and provide clear procedures for investigation and prosecution. However, challenges such as lack of political will, inadequate legal frameworks, and limited judicial capacity often hinder effective accountability at the domestic level¹³⁴.

3.2.4.3 Strengthening Monitoring Systems and International Cooperation

For accountability mechanisms to be effective, they must be supported by robust monitoring systems and international cooperation. Strengthening monitoring involves improving data collection, verification, and reporting processes. Enhancing the capacity of national and regional actors, including civil society organizations and national human rights institutions, to monitor violations can help bridge gaps in accountability. International partnerships, such as those coordinated by the UN, can provide technical assistance, funding, and expertise to support local monitoring efforts¹³⁵.

¹³³ Henckaerts, J.-M., & Doswald-Beck, L. (2005). *Customary International Humanitarian Law. Volume I: Rules*. Cambridge University Press, p. 49

¹³⁴ *Ibidem*

¹³⁵ Melzer, N., *Op. Cit.*, p. 28

Furthermore, international cooperation is essential in overcoming jurisdictional challenges and ensuring the enforcement of accountability measures. Mutual legal assistance treaties (MLATs) and extradition agreements are critical tools for bringing perpetrators to justice, especially when they cross international borders. Diplomatic efforts and sanctions can also be employed to compel states and non-state actors to respect IHL and cooperate with accountability mechanisms¹³⁶.

In conclusion, enhancing accountability mechanisms and monitoring systems for violations against IHOs is vital for protecting humanitarian operations and upholding the principles of IHL. By combining rigorous documentation practices, effective judicial processes, and strong international cooperation, the international community can better safeguard humanitarian organizations and ensure that those who violate their rights face justice.

Partial Conclusion

The protection of international humanitarian organizations during armed conflicts is a multifaceted challenge that requires robust legal and institutional mechanisms. The hypothesis that both legal and institutional mechanisms can enhance the protection of IHOs is supported by the comprehensive legal frameworks provided by IHL and IHRL, and the crucial roles played by international institutions, NGOs, and advocacy groups. Strengthening these mechanisms, improving security measures, enhancing institutional capacity, raising awareness, ensuring compliance, and leveraging technological innovations are essential strategies to safeguard humanitarian workers and ensure the effective delivery of aid. As conflicts evolve, continuous efforts are needed to adapt and reinforce these protections, ensuring that IHOs can operate safely and fulfill their vital humanitarian missions.

¹³⁶ Ibidem

GENERAL CONCLUSION AND RECOMMENDATIONS

This chapter summarizes the conclusion and frames recommendations based on the results of the research topic entitled: “*Critical analysis on the Protection of International Humanitarian Organisations during International Armed Conflict under International Humanitarian Law*”.

Initially, the researchers’ interest has been by the desire to contribute to a better understanding of the challenges faced by humanitarian organizations in conflict settings, thereby informing policy and practice aimed at enhancing their protection and effectiveness.

The general objective of this study is to conduct a comprehensive to make a critical analysis on the protection of international humanitarian organisations during armed conflict under international humanitarian law. This study aimed to achieve the following specific objectives: To evaluate the level of protection of international humanitarian organizations under international humanitarian law and to identify the mechanisms and strategies to enhance the protection of international humanitarian organizations during armed conflicts.

The first chapters had two sections in which one concerned the definition of key concepts and the other one concerned the generalities on international humanitarian organizations. The results obtained are detailed in chapter two and chapter three. From the results obtained through analysis of available documents, the researchers found that the protection of international humanitarian organizations under international humanitarian law is a fundamental aspect of ensuring that aid reaches those in need during times of conflict. While the legal frameworks provided by the Geneva Conventions and Additional Protocols offer robust protections, the practical implementation of these protections faces significant challenges. Enhancing compliance, engaging with non-state actors, improving security measures, and advocating for stronger legal frameworks are essential steps towards better protecting humanitarian workers and ensuring the effective delivery of aid. As conflicts evolve and new challenges emerge, the international community must remain vigilant and committed to upholding the principles of IHL and safeguarding those who work tirelessly to alleviate human suffering.

Concerning the mechanisms and strategies to enhance the protection of international humanitarian organizations during armed conflicts, it was found that the protection of international humanitarian organizations during armed conflicts is a multifaceted challenge that

requires robust legal and institutional mechanisms. The hypothesis that both legal and institutional mechanisms can enhance the protection of IHOs is supported by the comprehensive legal frameworks provided by IHL and IHRL, and the crucial roles played by international institutions, NGOs, and advocacy groups. Strengthening these mechanisms, improving security measures, enhancing institutional capacity, raising awareness, ensuring compliance, and leveraging technological innovations are essential strategies to safeguard humanitarian workers and ensure the effective delivery of aid. As conflicts evolve, continuous efforts are needed to adapt and reinforce these protections, ensuring that IHOs can operate safely and fulfill their vital humanitarian missions.

Recommendations

Based on the discussions above regarding the protection of humanitarian workers and operations in conflict zones, the following recommendations are framed:

Enhance Legal and Policy Frameworks: Governments should prioritize the ratification and effective implementation of international humanitarian law (IHL) and international human rights law (IHRL) treaties. This includes aligning national legislation with these norms to provide robust legal protections for humanitarian workers. Regular reviews and updates of national laws should be conducted to ensure they reflect current humanitarian challenges and international standards.

Strengthen Compliance and Accountability Mechanisms: Establish and reinforce robust monitoring, reporting, and investigative mechanisms to document violations against humanitarian personnel and infrastructure. Independent and transparent reporting is crucial for holding perpetrators accountable. Strengthen international cooperation to ensure consistent enforcement of sanctions and penal measures against those responsible for attacks on humanitarian workers, including travel bans and asset freezes.

Invest in Technological Innovations: Increase investment in technology such as satellite imagery, drones, and secure communication systems to enhance the security and efficiency of humanitarian operations. Develop and implement robust cybersecurity measures to protect sensitive data related to humanitarian activities. Foster partnerships with tech companies and

research institutions to innovate and adapt technologies for humanitarian use, ensuring they meet ethical standards and operational needs.

Empower Local Capacities: Support capacity-building programs for local organizations and authorities to enhance their understanding and implementation of IHL and humanitarian principles. Promote community engagement and ownership of humanitarian initiatives to foster sustainable responses to humanitarian crises. Encourage inclusive decision-making processes that incorporate local perspectives and expertise in planning and delivering humanitarian aid.

By implementing these recommendations, stakeholders can collectively strengthen the protection of humanitarian workers, improve the effectiveness of humanitarian operations, and uphold the principles of humanity, neutrality, and impartiality in conflict-affected regions. These actions are essential for mitigating risks, enhancing resilience, and ensuring that humanitarian assistance reaches those most in need in challenging and often volatile environments.

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