Journal of Tripa Law Review
ISSN: xxxx-xxxx (Online)
Vol. 1 No.1 (June) 2026
DOI: http://doi.org/10.22373/tripa.v1i1.10280

Journal of
TRIPA
LAW REVIEW

The Enforcement of International Humanitarian Law: The Case of The War in Gaza, Palestine

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Abstract

The armed conflict between Israel and Palestine, which has flared up again since Hamas retaliated to Israel regime on 7 October 2023, has drawn international attention, particularly in the context of violations of International Humanitarian Law (IHL). This study aims to identify applicable IHL principles and evaluate violations committed in the context of the war in Gaza. In this conflict, Israel has been accused of violating fundamental principles of IHL, such as the protection of civilians and access to humanitarian aid. Using a descriptive qualitative approach, this study examines various sources of IHL, including international treaties, international customs, general legal principles, international court rulings, and legal doctrines. The findings indicate that the military aggression carried out by Israel in Gaza has violated the provisions of IHL and caused a widespread humanitarian crisis. Therefore, firm enforcement of international law is required to ensure the protection of war victims and to prevent the recurrence of similar violations in the future.

KEYWORDS *International Law, Gaza Crisis, Human Rights*

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Introduction

Currently, the international community is actively discussing the conflict that has flared up again between Israel and Palestine, following the surprise retaliation carried out by Hamas on 7 October 2023, which served as the trigger for Israel regime to bombardment and devastate the Gaza Strip. The conflict between Israel and Palestine has deep historical roots, dating back to the end of the First World War when the Ottoman Empire collapsed, and the territory of Palestine came under British mandate. Through the Balfour Declaration of 1917, the British government promised the land of Palestine as a 'homeland' for the Jewish people. This promise marked the beginning of a massive migration of Jews to Palestine, which took place from 1920 to 1939. This wave of migration sparked concern and resistance among the Palestinian population, as they felt threatened by the prospect of losing their land.[1]

In 1948, the UN put forward a peace proposal for Arabs and Jews in Palestine, involving the partition of Palestinian territory to create separate Arab and Jewish states. This peace proposal, known as *the UN Partition Plan*, allocated 55% of Palestinian territory to the Jewish state and the remaining 45% to the Arab state. However, demographically, the Jewish community constituted only around 7% of the total Palestinian population, with the remaining 93% being Arab. Given the imbalance between the population figures and the territory allocated by the UN, protests from the Arab community began to emerge. Arab anger was further fuelled after the Jewish people declared the establishment of the State of Israel on 14 May 1948, and the Soviet Union and the United States recognised the state's establishment.[2] Since then, armed conflict has continued between Israel and Palestine. Israel has carried out various attacks against Palestinians and destroyed many buildings, resulting in the loss of property, the deaths of thousands of Palestinians, and the occupation of Palestinian territory by Israel.[3]

Armed conflict, commonly referred to as war, is the final resort in a dispute between two nations when a peaceful resolution cannot be reached, in which those nations employ various means—such as violence, conquest,

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1 Daniel Bar-Tal, "The Told Story of the Gaza War," *World Affairs* 188, no. 3 (2025), https://doi.org/10.1002/waf2.70005.

2 Robert J.C. Young, "The Longest War," *From the European South* 15 (2024), https://doi.org/10.1177/030642209602500534.

3 Hafara Khoirunnisa et al., "Judaization in Palestine: Is It Genocide According to the 1998 Rome Statute?," *Sriwijaya Law Review* 8, no. 1 (2024), https://doi.org/10.28946/slrev.Vol8.Iss1.3144.pp79-98.

deception and the spread of terror—to defeat their adversary.[4] As for the reasons why humans wage war, it is to defend themselves; this is as stated by Morgenthau in his classic work, in which he asserts that 'the drive to live, to multiply and to dominate is common to all humans' – the strength of the human desire to live will drive war to a stage where it knows no bounds.[5] War that knows no bounds will only bring suffering to all parties involved, as it will result in casualties and deaths, and people will not be treated humanely by the enemy. In an effort to prevent war from exceeding all limits, laws are required to set boundaries so that war can be conducted humanely. When violations occur in armed conflict, international law serves as a vital instrument in upholding justice. One such instrument is International Humanitarian Law, a set of rules established on humanitarian grounds and aimed at limiting the impact of armed conflict.[6]

International law contains rules governing war and acts of violence, which are a last resort used to resolve a problem and may be carried out in accordance with human rights principles; this law is hereinafter referred to as International Humanitarian Law.[7] International Humanitarian Law consists of a set of restrictions within international law governing the use of force in war and the treatment of individuals during a conflict. These rules apply during the conflict (*jus in bello*) as well as in situations of occupation arising from armed conflict. Its primary aim is to protect the wounded, whether civilians, combatants, or those no longer involved in the fighting.

The ongoing hostilities between Palestine and Israel are deemed to constitute a war that has violated the principles of International Humanitarian Law, as they are immoral and inhumane, having breached all the principles enshrined in human rights. Although these rules form part of the international consensus, they are considered to have been violated by Israel. Humanitarian tragedies continue to unfold in Palestine. Israeli aggression in Gaza, as of Monday, 17 March 2025, has killed over 48,600 Palestinians, with the number of injured reaching 112,041, whilst Israel has also completely blocked

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4 Nicola Perugini, "Between Anti-Colonial Resistance and Colonial Genocide: Gaza at the Limits of International Law," *Journal of Imperial and Commonwealth History*, November 19, 2025, https://doi.org/10.1080/03086534.2025.2578214.

5 Haytham Besaiso, Peter Fenn, and Margaret Emsley, "Alternative Dispute Resolution in Palestine: The Myth and Dilemma of Construction Mediation," *International Journal of Law in the Built Environment* 8, no. 3 (2016), https://doi.org/10.1108/IJLBE-12-2015-0021.

6 Chuck Thiessen and Marwan Darweish, "Conflict Resolution and Asymmetric Conflict: The Contradictions of Planned Contact Interventions in Israel and Palestine," *International Journal of Intercultural Relations* 66 (2018), https://doi.org/10.1016/j.ijintrel.2018.06.006.

7 Lindra Darnela et al., "War Crimes and Legal Accountability in the 2023 Israel-Gaza Conflict," *Lentera Hukum* 11, no. 3 (2024), https://doi.org/10.19184/ejlh.v11i3.47011.

humanitarian aid, including food and medical supplies, from entering Gaza. A few days later, Israel also cut off the electricity supply to a seawater desalination project, leaving Palestinians in Gaza with an even greater shortage of clean water. Therefore, this study aims to identify the principles of International Humanitarian Law in the context of the conflict between the Palestinian people and Israel.

The research methodology employed in this study is a normative approach, utilising a review of secondary sources, including books, regulations, internet resources, journals, and other documents related to International Humanitarian Law. This is a descriptive study that examines the facts of the armed conflict between Israel and Hamas, as well as the human rights violations committed by Israel against the Palestinian population in Gaza. This study has limitations, as it relies solely on secondary data, which may underrepresent the perspectives of the parties to the conflict. However, the use of secondary data from various credible sources allows for a comprehensive analysis of the human rights violations committed by Israel against the Palestinian population in Gaza within the context of the armed conflict with Hamas.

The Gaza War: An International Law Perspective

The conflict between Israel and Palestine, which has escalated again since October 2023, highlights the reality that the fundamental principles of International Humanitarian Law (IHL) have been systematically violated.[8] IHL aims to limit human suffering during armed conflict by establishing rules regarding who may be targeted and how attacks are conducted. The main principles of IHL include distinction, proportionality, military necessity, and the protection of civilians and civilian objects.

In the context of the conflict in Gaza, Israeli military attacks have frequently disregarded these principles. Attacks on civilian areas, hospitals, schools and places of worship have caused thousands of deaths and injuries among civilians.[9] These actions clearly contravene the principles of distinction

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8 Kubo Mačák and Ellen Policinski, "The Object and Purpose of the Fourth Geneva Convention," in *Civilian Protection in Armed Conflict: Select Issues*, 2025, https://doi.org/10.1093/oso/9780197793176.003.0003.

9 Per Bauhn, "Just War, Human Shields, and the 2023–24 Gaza War," *Israel Affairs* 30, no. 5 (2024), https://doi.org/10.1080/13537121.2024.2394289.

and proportionality. IHL strictly prohibits attacks on non-military targets and requires that every attack take into account the potential for civilian casualties.[10]

Data collected up to March 2025 indicates that Israeli aggression in Gaza has killed over 48,600 Palestinians and injured more than 112,000 people. Furthermore, Israel is blocking humanitarian aid intended for Gaza, including food, medicines, and clean water supplies.[11] The cutting off of the power supply that supports vital facilities, such as the seawater desalination project, is further exacerbating the ongoing humanitarian crisis. These practices not only contravene humanitarian values but also violate international legal obligations under the 1949 Geneva Conventions and the 1977 Additional Protocols.[12]

According to the Geneva Conventions and other provisions of international law, armed conflicts may be classified as international or non-international.[13] The Israeli-Palestinian conflict is legally categorised as an international armed conflict because it involves two warring entities and has long been the subject of international attention.[14] However, the presence of non-state actors such as Hamas adds to the complexity, meaning this conflict contains elements of a non-international conflict. This situation allows for the application of legal provisions from both types of conflict under IHL.

The enforcement of IHL relies heavily on international mechanisms such as the International Court of Justice (ICJ). ICJ rulings in previous cases, such as Bosnia v. Yugoslavia and Nicaragua v. the United States, reinforce the principle that states are responsible for IHL violations committed by their agents, including the military. Legal doctrines, such as the Martens Clause, also serve as a moral and legal foundation in situations where no written rules explicitly govern a particular case.[15]

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10 Jochen von Bernstorff and Eva Maria Bredler, "'A Violation of the Right of Peoples to Self-Determination,'" *Verfassungsblog*, October 17, 2025, https://doi.org/10.59704/627525bf9be51909.

11 Saleh Raed Shatat and Ong Argo Victoria, "ILLEGAL LAND GRAB: ISRAEL'S SEIZURE OF LAND IN PALESTINE," *Jurnal Akta* 8, no. 2 (2021), https://doi.org/10.30659/akta.v8i2.15685.

12 Yara Hawari, "Neocolonialism in Gaza | New Internationalist," January 6, 2026, https://newint.org/colonialism/2026/neocolonialism-gaza.

13 María Teresa González Hernández, "The Inclusion of Ecocide to the Rome Statute: A New Tool to Combat the Climate Crisis?," *Revista de Derecho Ambiental(Chile)* 1, no. 19 (2023), https://doi.org/10.5354/0719-4633.2023.68825.

14 Melanie O'Brien and Gerhard Hoffstaedter, "'There We Are Nothing, Here We Are Nothing!'—The Enduring Effects of the Rohingya Genocide," *Social Sciences* 9, no. 11 (2020), https://doi.org/10.3390/socsci9110209.

15 Annekathryn Goodman et al., "Survival after Sexual Violence and Genocide: Trauma and Healing for Yazidi Women in Northern Iraq," *Health* 12, no. 06 (2020), https://doi.org/10.4236/health.2020.126046.

Although the legal framework of IHL is well-established, its implementation still faces various obstacles. States with significant political and military power, such as Israel, often evade legal accountability due to the dynamics of international politics and protection from strategic allies. The lack of firm action by the UN Security Council in responding to Israeli aggression against Palestine serves as a clear example of how the enforcement of international law is often unbalanced. This results in an ongoing humanitarian tragedy without concrete solutions or justice for the victims.

A. Terms of International Humanitarian Law

Humanitarian law is a set of rules governing the methods. It means that it may be used in war and to protect people in armed conflict, such as that currently being experienced by the people of GAZA, PALESTINE. The law in Indonesia incorporates international principles aimed at mitigating the humanitarian impact of conflict. International Humanitarian Law (IHL), also known as the Law of Armed Conflict, is a body of law comprising the Geneva Conventions and the Hague Conventions, additional protocols, case law, and customary international law.[16]

International Humanitarian Law defines how belligerent States, neutral States, and persons involved in war are to behave and are accountable to one another and to protected persons, who are generally civilians. IHL binds states bound by the relevant treaties of the Law. In addition, there are several unwritten general rules of war; many of these were examined in the Nuremberg War Trials. More broadly, these unwritten rules grant permissive rights, also known as rights of opening, and prohibit belligerent states from dealing with illegal forces or non-signatory parties. War crimes are the term used to describe violations of international humanitarian law.[17]

International humanitarian law conventions distinguish between international armed conflicts and non-international armed conflicts. This distinction has attracted considerable criticism. The terms ‘state of emergency’ and ‘international humanitarian law’ differ in their application. International humanitarian law emphasises the impact of war on humanity by protecting war victims from grave and widespread danger and from unnecessary injury or

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16 Zora Hesová, “International Principles or Crude Geopolitics? The Incoherence of Czech Foreign Policy Towards Ukraine and Gaza,” *Czech Journal of International Relations* 60, no. 2 (2025), https://doi.org/10.32422/cjir.1893.

17 Jiaxi Wu, “The Legal Framework Governing the Use of Force in International Disputes: An Analysis of Self-Defense, Necessity, and Proportionality,” *Global Development Dialogues* 1, no. 3 (2025), https://doi.org/10.63808/gdd.v1i3.213.

suffering. At the same time, the state of martial law places greater emphasis on the laws and conduct of war, meaning the extent to which those laws apply once war has commenced. The protection of civilians is at the heart of martial law.

B. Sources of International Humanitarian Law

International humanitarian law forms part of public international law; consequently, the sources of law applied are the same as those of international law in general. Based on its sources of law, international humanitarian law also derives from Article 38(1) of the Statute of the International Court of Justice, which explains that the sources of international law consist of international treaties, international custom, general principles of law, judicial decisions (*case law*), and legal doctrine (expert opinion).

1. International treaties

International treaties may be used to establish rules or norms in international law. The term 'international treaty' may refer to agreements concluded bilaterally or multilaterally. As subjects of international law, states must interact with one another; consequently, instruments are required to facilitate communication, drawing upon principles of civil, criminal and other branches of law. International treaties serve to accommodate the will of the parties in achieving common objectives and can therefore be classified as legal instruments and constitute a primary source of international law. International treaties must be in written form (deed) to serve as evidence of their existence. Various forms of international instruments are used as the basis for the drafting of international treaties, such as treaties, conventions, agreements, covenants, charters, statutes, deeds, declarations, concordats, exchanges of notes, exchanges of letters, memoranda of understanding, pacts, protocols, minutes, final acts, modus vivendi, and temporary agreements.[18]

Treaties are used when the substance or subject matter set out in the agreement is of great importance. Treaties have very strong legal standing because they bind the parties as legal subjects, and their sanctions can compel compliance. Conventions are used as international agreements when an international conference generally produces decisions that relate to society or

[18] Hernández, "The Inclusion of Ecocide to the Rome Statute: A New Tool to Combat the Climate Crisis?"

affect the livelihoods of many people. The following are examples of several international conventions, including:[19]

- The Geneva Conventions (1949), which establish standards of humanitarian protection for victims of war, including wounded and sick soldiers and civilians.
- The Vienna Conventions (1961 and 1963), which set out rules regarding diplomatic and consular relations between states.
- The Convention on the Rights of the Child (1990), which establishes the fundamental rights of children and international standards for their protection.
- Convention on the Prevention and Punishment of the Crime of Genocide (1948)
- Convention on the Elimination of All Forms of Racial Discrimination (1965)
- Convention on the Elimination of All Forms of Discrimination against Women (1979).

Meanwhile, the first charter, the Magna Carta, was drawn up in 1215, so the existence of charters has a long history in the international community. A charter is an instrument that establishes an international organisation; for example, the UN Charter, adopted on 26 June 1945 in San Francisco, marked the establishment of the United Nations (UN).

A declaration is a statement of a state's stance in building friendly, cooperative, and mutually respectful state relations. A declaration is not legally binding (soft law); however, the signatories have a moral obligation to comply with its contents. Examples of declarations include: the Universal Declaration of Human Rights (UDHR), the Sino-British Joint Declaration on Hong Kong (1984), the UN Declaration on the Rights of Indigenous Peoples, the Bangkok Declaration (1967), the Djuanda Declaration (1957), and the Unilateral Declaration on the Suez Canal (Egypt, 1957).

2. International Custom

Although treaty law is the most tangible source of international law, its rules and principles are often rooted in custom, that is, the general practice of

[19] Niaz A. Shah, "The Application of Human Rights Treaties in Dualist Muslim States: The Practice of Pakistan," *Human Rights Quarterly* 44, no. 2 (2022), https://doi.org/10.1353/hrq.2022.0020.

states (*usus*) accepted as law (*opinio juris*). International custom can be a source of international law because customary law does not necessarily predate treaty law; it may develop after the conclusion of a treaty or crystallise at the time of its conclusion. For example, a State at war may not have ratified either the 1980 Convention on Certain Conventional Weapons or Additional Protocol I, which prohibits the use of "weapons, projectiles, materials and methods of warfare which are of a nature to cause excessive injury or unnecessary suffering". However, there is a universally recognised customary prohibition regarding such weapons and methods of warfare. Consequently, that State is prohibited from using such munitions under customary international humanitarian law.[20]

For international custom to function as a source of international law, several conditions must be met, namely: (1) The provision must be a necessity; (2) The custom must be general (practised by states) and relate to international relations; (3) There must be an ideal psychological element whereby the international custom is perceived as fulfilling the requirements of law, as per the Latin adage opinio juris sive necessitatis (legal opinion or necessity). The fact that customary law is unwritten does not mean that it is any less binding than treaty law. The difference lies in the source, not in the binding force of the obligations created. For example, the International Military Tribunal at Nuremberg, in the trials following the Second World War, not only confirmed that the 1907 Hague Regulations had attained the status of customary law and were binding on all States regardless of ratification and reciprocity, but also that individuals could be held criminally liable and punished for violating their provisions, which constituted customary international law.

3. General Principles of Law

The third source of international law, alongside treaties and custom, consists of "general principles of law recognised by civilised nations." There is no agreed definition or list of general principles of law. Essentially, the term refers to legal principles recognised across all developed national legal systems, such as the duty to act in good faith, the right to self-defence, and the principle that criminal law does not apply retroactively. General legal principles give rise to international provisions derived from existing rules; therefore, such principles must have substance and a clear meaning. These principles are

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[20] Aisha Mohammed Kucici, D R Raji, and Rafiu Boye, "The Double Standard in International Relations; Why the United Nations Fail To Respond Effectively To Gaza Compared To Other Conflicts," *International Journal of Law* 6, no. 6 (2024).

derived from conventions to support, clarify and interpret a rule that applies internationally.[21]

The Statute of the International Court of Justice states that the principle of general law is a principle found in all legal systems. In addition to this principle, several principles of humanitarian law serve as the basis for the development of other legal principles. The principles of good faith, proportionality and pacta sunt servanda are examples of international customs derived from codified general principles of law; consequently, these principles apply to cases before the International Court of Justice, serving as a complement to the application of humanitarian law. Principles of general law also apply in the military sphere, including the principles of distinction, the prohibition on causing unnecessary suffering, military necessity and unity of command.

International Court Rulings

The International Court of *Justice* is a judicial body of the United Nations based in The Hague, the Netherlands, known as *the International Court of Justice* (ICJ). The existence of this body is derived from the United Nations Charter, established in 1945. The International Court of Justice is the principal judicial organ of the United Nations, as set out in Article 92 of the United Nations Charter, and forms an integral part of the Charter. The International Court of Justice is tasked with examining, adjudicating, and deciding disputes arising between Member States of the United Nations where the parties have agreed to settle the dispute through the international judicial mechanism. Under the rules of the International Court of Justice, decisions are made by a majority vote of the judges present. They are final and not subject to appeal, as provided in Article 60 of the Statute of the International Court of Justice. The rulings of the International Court of Justice also serve as a source of law (case law) in adjudicating similar or identical cases.[22]

An example of an International Court of Justice ruling on international humanitarian law is the 1993 case of Bosnia and Herzegovina v. Yugoslavia. In this case, the ICJ ruled that states have an obligation to ensure that their agents, including the military, comply with international humanitarian law (IHL).

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21 Akila Radhakrishnan, Elena Sarver, and Grant Shubin, "Protecting Safe Abortion in Humanitarian Settings: Overcoming Legal and Policy Barriers," *Reproductive Health Matters*, 2017, https://doi.org/10.1080/09688080.2017.1400361.

22 Sergey Sayapin, "Principles of International Criminal Law," *The Military Law and the Law of War Review* 53, no. 1 (2023), https://doi.org/10.4337/mllwr.2014.01.13.

This ruling also emphasised the importance of state responsibility for violations of IHL committed by their agents. Another ICJ ruling on international humanitarian law is Nicaragua v. the United States (1986). In its ruling, the International Court of Justice affirmed that the general principles of IHL, such as the prohibition on the use of excessive force, cannot be disregarded in armed conflicts, whether international or non-international. This ruling confirms that IHL applies broadly and is not limited solely to international wars.[23]

1. Types of Armed Conflict in International Humanitarian Law

In International Humanitarian Law (IHL), armed conflict encompasses the use of armed force between two or more organised armed groups, whether government or non-government. The Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia (ICTY) has established that, broadly speaking, there are only two forms of armed conflict regulated under IHL, as set out in the 1949 Geneva Conventions and the 1977 Additional Protocols, namely: (a) International armed conflict, (b) non-international armed conflict.

The distinction between international and non-international armed conflicts under IHL lies in the number and nature of states parties to the conflict. An international armed conflict is defined as a war between two or more states, whereas a non-international armed conflict involves a state fighting against non-state armed groups.

1. International armed conflict

An international armed conflict is an armed conflict between two or more sovereign states (for example, State A at war with State B). Armed disputes between states comprise several situations as set out in Article 2 of the Common Articles of the 1949 Geneva Conventions, together with Article 1(4) in conjunction with Article 96(3) of Additional Protocol I of 1977.[24]

Article 2 of the 1949 Geneva Conventions states that an international armed conflict is defined as "all cases of declared war or other armed conflicts which may arise between two or more High Contracting Parties", plus "all cases

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23 Wu, "The Legal Framework Governing the Use of Force in International Disputes: An Analysis of Self-Defense, Necessity, and Proportionality."

24 Christina Zampas, Rebecca Brown, and Onyema Afulukwe, "Interpreting International Humanitarian Law to Guarantee Abortion and Other Sexual and Reproductive Health Services in Armed Conflict," *Health and Human Rights* 26, no. 1 (2024).

of partial or total occupation of the territory of a High Contracting Party, even if the occupation meets with no armed resistance from the local armed forces"

Meanwhile, Additional Protocol I of 1977 on the Protection of Victims of International Armed Conflicts, comprising 102 articles, defines the types of international armed conflict situations or situations equivalent to international armed conflict, which were not previously specified in the 1949 Geneva Conventions.[25]

2. Armed Conflict

Non-international armed conflicts, also known as "insurrections", occur within a state and may take the form of a civil war. (For example, an insurrection may occur in State C between rebel forces and the regular forces of State C. Insurrections always aim to secede from the parent state. Provisions regarding non-international armed conflicts are governed by a single article, namely, Common Article 3 of the 1949 Geneva Conventions, and by Additional Protocol II of 1977 on the Protection of Victims of Non-International Armed Conflicts, which comprises 28 articles.[26]

Article 3 of the Geneva Conventions states that a non-international armed conflict is an armed conflict that is not of an international character and occurs within the territory of one of the High Contracting Parties (signatories to the Geneva Conventions) or in cases of internal armed conflicts. It may also be said that a non-international armed conflict occurs within a state's territory.[27]

Under Additional Protocol II, this instrument applies to armed conflicts occurring within the territory of a State (High Contracting Party) between its armed forces and rebel armed forces or other organised armed groups which (under responsible command) exercise control over part of its territory, thereby enabling them to carry out sustained and coordinated military operations and to implement this Protocol (Article 1 of Additional Protocol II).

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25 Bayu Sujadmiko et al., "Does International Criminal Court Have Jurisdiction over the Destruction of Cultural Property by the Islamic State of Irac and Syria?," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 10, no. 2 (2021), https://doi.org/10.24843/jmhu.2021.v10.i02.p01.

26 Said Achmad Kabiru Rafiie, Amir Husni, and Said Atah, "ACEHNESE WARS AND LEARNING FROM 12YEARS OF PEACE IN ACEH," *Analisa: Journal of Social Science and Religion* 2, no. 2 (2017), https://doi.org/10.18784/analisa.v2i2.565.

27 Rozatul Fadilla Azza, Chairul Fahmi, and Riza Afrian Mustaqim, "LEGAL PROTECTION FOR LOCAL PRODUCTS IN ASEAN MARKET LIBERALISM: A Legal Analysis and Fiqh Muamalah Perspective," *Al-Mudharabah: Jurnal Ekonomi Dan Keuangan Syariah* 7, no. 1 (January 28, 2026): 128–51, https://doi.org/10.22373/AL-MUDHARABAH.V7I1.9675.

In the field of international humanitarian law, the concept of an internationalised armed conflict is also recognised. A situation of internationalised armed conflict may arise when a war is taking place between two distinct factions, each supported by a different state.

The term 'internationalised conflict' may encompass:

a) War between two groups within a single state, both of which are supported by different states.
b) Direct hostilities between two foreign states that intervene militarily in an internal armed conflict to support opposing sides; and
c) A war involving foreign intervention to support rebel groups fighting against the ruling government. The most transparent example of an internationalised armed conflict is NATO's intervention in the armed conflict between the Federal Republic of Yugoslavia (FRY) and the Kosovo Liberation Army (KLA) in 1999. Another example is the intervention by Rwanda, Angola, Zimbabwe, Uganda and others in support of the warring parties in the internal armed conflict in the Democratic Republic of the Congo (DRC) in August 1998.

The Relationship between Human Rights and International Humanitarian Law

The relationship between Human Rights and International Humanitarian Law (also known as international human rights law, or IHRL) is a branch of international law that establishes and protects human rights, both at the global level and within a state. This law seeks to change the way states treat their people, emphasising that every state must protect and respect the rights of every individual. Human rights are the fundamental freedoms and rights possessed by every human being worldwide. These rights are safeguarded and protected through various international treaties, conventions, resolutions and declarations, as well as through customary international law.[28]

The protection of human rights at the international level is closely linked to international humanitarian law, which governs the protection of people in situations of conflict or war, and international refugee law, which governs the protection of refugees. To protect human rights, clear laws or rules are essential. These laws provide certainty and protection when upholding human rights.

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[28] Amit Kumar, "Custom as a Source under Article 21 of the Rome Statute," *Asian Journal of International Law* 11, no. 2 (2021), https://doi.org/10.1017/S2044251321000205.

Throughout history, several important international treaties or documents have been drawn up to protect human rights, including:

1) Magna Carta (1215)
   This document was drawn up in England when the nobility forced King John to grant them certain rights. The content of this document also limited the king's power, preventing him from acting arbitrarily.
2) Bill of Rights (1689)
   This was a law passed by the British Parliament after the people rose against King James II. This event is known as *the Glorious Revolution* because it took place without violence.
3) Declaration of the Rights of Man and of the Citizen (1789)
   This document was drawn up during the French Revolution as a form of protest against the old government, which was considered unjust. It states that every person has rights that must be respected.
4) Declaration of Independence (1776)
   This is a document drafted by the American people to declare their independence from Britain. Subsequently, the contents of this declaration were incorporated into the US Constitution in 1791 and became the basis for the protection of human rights in the US.

In the modern era, human rights regulations around the world began to develop following the adoption of the Universal Declaration of Human Rights (UDHR) by the United Nations in December 1948. This 1948 Declaration was established as a "common standard of achievement for all nations and states", setting out the civil, political, economic, social and cultural rights to which all human beings are entitled. This Declaration is the first universal statement and standard from the international community affirming that human rights must be protected internationally. Subsequently, other instruments were adopted to complement the UDHR, namely:

- ICCPR – International Covenant on Civil and Political Rights (e.g. the right to vote, freedom of speech, freedom of religion)
- ICESCR – International Covenant on Economic, Social and Cultural Rights (e.g. the right to work, education, healthcare)
- Two additional protocols (supplementary provisions) to the ICCPR

The combination of the UDHR, ICCPR, and ICESCR is known as *the International Bill of Human Rights*. These provisions subsequently form the legal basis for the creation of various international treaties, regional laws, and

human rights regulations within individual states. Nowadays, human rights are also considered a vital aspect of international relations. This means that nations worldwide must respect and uphold human rights in all their cooperation and interactions.

According to Calogeropulos, there are three perspectives on the differences and relationship between International Humanitarian Law (IHL) and Human Rights (HR), namely:

a) The *Integrationist* perspective, which states that human rights and IHL are interrelated, even serving as the foundation for one another. This means that human rights law can be regarded as the basis of humanitarian law, or vice versa.
b) The *Separatist* View, which argues that HR and IHL are two distinct systems that are not interconnected. They hold this view because they perceive fundamental differences, such as their scope: IHL governs armed conflicts between states or between states and other groups, whilst HR governs the relationship between the government and its people. In terms of nature, IHL is mandatory and neutral and must be observed in wartime, whereas human rights are more declaratory or political in nature. In terms of when they apply, IHL applies only during war, whilst human rights apply in peacetime.
c) The *Complementarist* view, which Calogeropulos himself espouses. He rejects the Separatist view because he considers that, although different, HR and IHL share the same objective: the protection of human beings. Therefore, these two systems should be understood as complementary.

Furthermore, according to Arlina and colleagues, the difference between IHL and HR is also evident in their implementation. IHL is implemented by states involved in conflict, protecting states, and organisations such as the International Committee of the Red Cross (ICRC).[29] Meanwhile, HR implementation is more commonly carried out by national institutions, such as courts and human rights protection bodies; indeed, individuals can file claims directly. In terms of objectives, human rights at the international level aim to punish human rights violations, whereas IHL focuses more on protecting

[29] Evhen Tsybulenko and Aleksi Kajander, "Customary International Humanitarian Law and Article 36 of Additional Protocol i to the Geneva Conventions: A Stopgap Regulator of Autonomous Weapons Systems," *TalTech Journal of European Studies* 12, no. 2 (2022), https://doi.org/10.2478/bjes-2022-0013.

victims of war and providing humanitarian aid.[30] Furthermore, within the IHL system, individuals do receive protection, but cannot directly bring a claim if a violation occurs. In contrast, under the human rights system, everyone has the right to bring a claim before a court if their rights are violated. Although IHL and human rights differ in terms of their scope, nature, and temporal application, they remain interconnected and complementary. Both share the same objective: to protect human rights and dignity. Indeed, humanitarian law and human rights also share many similarities. Both oblige states to protect individual rights. IHL, which initially only protected specific groups such as prisoners of war, has now begun to adopt a human rights approach by extending protection to all civilians. Human rights focus on fundamental human rights such as the right to life, freedom, and security, whilst IHL aims to limit violence during war by guaranteeing a minimum level of protection for human beings. Generally speaking, the relationship between human rights law and international humanitarian law is very close, as both place equal emphasis on physical safety and human dignity, regardless of the situation. However, international humanitarian law is more specific as it also regulates weapons, combat tactics, and the treatment of war victims, which are not covered in detail in human rights treaties.

Conclusion

The application of humanitarian law aims to make war more humane and to uphold humanitarian principles. One of the main objectives of this law is to assist and protect those affected by warfare, whether or not they are directly involved in the fighting.

Data and information obtained from various media sources and demonstrations across numerous countries indicate that Israel's actions violate human rights. The use of heavy weaponry, with unpredictable consequences, has spread widely, causing numerous deaths among the Palestinian civilian population, including both adults and children. Furthermore, the crisis arising from these attacks is being justified on the grounds of countering Palestinian supporters who are attacking Israel. These actions by Israeli Zionists violate fundamental rights, which form part of two legal systems: Human Rights and International Humanitarian Law.

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30 Muhammad Rafli Lubis and Hasbi Aswar, "Peran PBB Menangani Pelanggaran HAM Dalam Konflik Suriah Tahun 2013-2018," *Hasanuddin Journal of International Affairs*, vol. 2, 2022.

The crime of military aggression is the most serious violation attracting global attention. The aggression committed by Israel has been shown to disregard the principles enshrined in International Humanitarian Law, including the rule prohibiting the infliction of unnecessary suffering, the principle of distinction, the principle of humanity, and the principle of proportionality. Judging by Israel's attacks, these actions have crossed the boundaries of humanity, as if aimed at eradicating the Palestinian people. Although there have been efforts by the UN to resolve the conflict between Israel and Palestine, to date, no successful solution has been found.

As a state that has ratified the Geneva Conventions and their protocols, Israel is responsible for upholding and implementing their provisions. Although Israel has not ratified the Hague Conventions, these rules remain binding on all states, including those that have not ratified them, as part of customary international law. The numerous violations committed by Israel demonstrate that the sources of International Humanitarian Law have not been effective in regulating states engaged in armed conflict. Consequently, firm action is required against states found to have violated these conventions.

Various issues arise when the International Criminal Court attempts to apply International Humanitarian Law in the Israeli-Palestinian conflict. Nevertheless, the International Criminal Court and its mandate can still help end this humanitarian crisis. When international law is violated, the International Criminal Court can help halt such violations, uphold justice, and rebuild trust in the system.

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