

THE APPLICATION OF INTERNATIONAL HUMANITARIAN LAW NORMS IN THE CASE OF THE CONFLICT BETWEEN ISRAEL AND PALESTINE

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Abstract: This scientific article provides a comprehensive analysis of the application of international humanitarian law norms in the long-term conflict between Israel and Palestine, the complexities encountered, and the effectiveness. The study examines the historical context of the conflict and the theoretical foundations of international law, drawing on the Geneva Conventions, United Nations resolutions, International Court of Justice decisions, and contemporary scholarly literature. The article highlights practical challenges such as the difficulties in applying the principles of separation and proportionality in asymmetric urban warfare, obstacles to humanitarian assistance, and the obligations of the occupying power. It also discusses international accountability mechanisms, the role and limitations of the UN, and future prospects. In conclusion, it emphasizes the importance of ensuring adherence to the laws of the international community in this regard.

Keywords: International humanitarian law, Israeli-Palestinian conflict, Geneva Conventions, military occupation.

Introduction

The conflict between Israel and Palestine is one of the longest-running and most complex crises in modern international relations, lasting more than 75 years. The conflict is associated with increased tensions and the displacement of thousands of people after the United Nations resolution on the establishment of the State of Israel in 1948. The reasons for the long duration of the conflict are assessed inextricably linked to the injustice of the territorial distribution and the interests of political forces in the region. The application of the norms of international humanitarian law (IHL) in this conflict is of particular importance, as it provides legal instruments aimed at protecting the fundamental values of humanity during armed conflicts, protecting civilians, reducing their suffering, and limiting the methods and means of waging war. The purpose of this scientific article is to provide an in-depth analysis of the theoretical foundations of the norms of IHL in the context of the Israeli-Palestinian conflict, problems in their practical application, mechanisms of accountability, and the role of international courts. An attempt will also be made to draw conclusions about existing legal gaps and future prospects.

International humanitarian law is recognized as a comprehensive system of legal norms and principles applicable in times of armed conflict. Its main purpose is to prohibit or restrict certain methods and means of warfare, to ensure human rights during such conflicts, and to establish international legal responsibility for any violations. As noted in the existing literature, the subject matter of IHL covers various aspects of interstate relations, including the beginning and end of war, the neutrality of states not involved in the conflict, the limitation of methods of warfare by belligerents, and the protection of war victims and cultural monuments. At the same time, it defines the regime of military occupation and imposes both state responsibility and criminal liability of individuals for violations of its norms. These rules, commonly known as the "laws and customs of war", establish a number of principles and norms that limit military tactics and the use of resources. Its rules apply to both international armed conflicts (such as conflicts between states and struggles against

colonialism, foreign occupation, or racist regimes) and non-international armed conflicts. This legal system is formally enshrined in the UN Charter and various other international legal instruments.

The application of IHL, in particular the 1949 Geneva Conventions and their Additional Protocols, is crucial in the context of the Israeli-Palestinian conflict. These complex legal frameworks apply to Israel, the State of Palestine, and non-state actors such as Hamas. While some of the provisions of the Geneva Conventions were developed primarily for inter-state conflicts, the rules of customary international humanitarian law are fully binding on both states and non-state actors such as Hamas. The practical application of IHL norms in the context of the conflict raises a number of serious challenges. Violations of IHL rules undermine the protection of civilians, hinder humanitarian access, and disrupt humanitarian assistance. The current military operation was launched by Israel following a Hamas attack on 7 October 2023, which resulted in the deaths of over 1,200 people and the taking of over 250 hostages. This is the fifth major armed conflict in Gaza since 2008, now in its second year. There are concerns that thousands of Palestinian civilians have been killed in the process. One of the main challenges is applying these laws, developed in the 20th century, to modern, asymmetric urban warfare. Applying the principles of separation and proportionality in dense urban areas is particularly challenging. Combatants can move among civilians or use dual-purpose facilities, blurring the lines between military and civilian targets. This makes it difficult to identify legitimate military objectives and assess whether civilians are being harmed excessively, and highlights the limitations of international law on enforcement.

Military occupation in modern conflicts imposes urgent humanitarian obligations on the occupying State under international law. Occupation, defined as effective foreign control over territory, gives rise to obligations under the Fourth Geneva Convention of 1949, its Additional Protocol I of 1977, customary international humanitarian law and international human rights law, as confirmed by the International Court of Justice in the case of Palestine. One of the main obligations is the prohibition of the use of starvation as a method of warfare, which means the deliberate deprivation of essential goods, which may include the withholding of aid or the destruction of the means of production. The occupying State has the primary responsibility to meet the needs of the occupied population, acting as a steward of resources and maintaining the self-sufficiency of the territory. In particular, it must ensure the provision of food, medical supplies and other essential items "to the fullest extent of available means". This responsibility cannot be delegated to others. If needs are not met, the occupying power must allow and facilitate external humanitarian assistance. Arbitrary withdrawal of assistance may constitute a war crime, and serious violations may result in international criminal liability. The role of the United Nations in monitoring and ensuring accountability for violations of international humanitarian law is also discussed. UN Security Council and General Assembly resolutions, International Criminal Court decisions, and contemporary scholarly sources inform this research. A careful examination of UN mandates, political constraints, and operational practices in conflict settings, as well as international legal mechanisms for protecting civilians and preventing war crimes, is undertaken. Concluding observations are made on the overall effectiveness of international mechanisms in the existing literature, identifying existing institutional gaps in global governance, and suggesting potential future actions for the international community.

This study uses a legal-doctrinal analysis methodology to examine the application of IHL norms to the Israeli-Palestinian conflict. The study draws on primary sources of international law, in particular the 1949 Geneva Conventions and their Additional Protocols, and the Charter of the United Nations. It also examines in depth secondary sources, such as

UN Security Council and General Assembly resolutions, relevant decisions of the International Court of Justice, judgments of the International Criminal Court, and academic articles, reports, and expert opinions. The methodology involves a comparative and critical analysis of how IHL principles are interpreted and applied in practice in the context of this specific conflict. The focus is on the fundamental principles of IHL, such as separation, proportionality, and precaution, the obligations of humanitarian assistance, and the responsibility of the occupying State in situations of military occupation. This approach allows for an assessment of the existing legal mechanisms, their effectiveness, and their practical limitations.

Conclusion

The analysis of the application of international humanitarian law in the context of the Israeli-Palestinian conflict shows that, while IHL is theoretically a strong and comprehensive legal framework, its practical implementation and effectiveness face many complexities and limitations. The protracted nature of the conflict, its asymmetric nature, and its occurrence in densely urban settings make it extremely difficult to apply the principles of separation, proportionality, and precaution. There are serious problems in separating civilians from military targets during hostilities, assessing their harm, and overcoming obstacles to humanitarian assistance. In particular, the humanitarian obligations of the occupying power, including the prohibition of starvation as a method of warfare and the obligation to provide the occupied population with food, medical care, and other essential items, are of particular importance, and their violation may give rise to international criminal liability. The role of international mechanisms, in particular the United Nations, in this regard is also discussed. While UN mandates, Security Council and International Court of Justice decisions are important, their effectiveness is often limited by political constraints, conflicts of interest and institutional gaps. These limitations make it difficult to ensure accountability for violations of international law and hinder the delivery of justice. Looking ahead, the international community must take more proactive and consistent action to ensure full compliance with the ICC. This includes strengthening international institutions such as the UN, ensuring fair and impartial application of the ICC by all parties, including non-state armed groups, and improving monitoring and enforcement mechanisms. It is also necessary to restore respect for international law by increasing the accountability of all parties to the conflict and making it impunity for war crimes. Finally, political will and enhanced international cooperation will be crucial to ensure more effective application of the ICC in this protracted conflict and to reduce human suffering.

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