



Committee: Legal Committee (GA4)

Issue: Redacting the International Humanitarian Law in the Scope of the Current Global Atmosphere

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Introduction to the Issue

In order to understand how crucial it is to alter the **international humanitarian law (IHL)**, elaborating on the events that made it come into existence is crucial. Also referred to as the laws of armed conflict, the IHL was constituted with respect to the four Geneva Conventions (1949) in order to bring restrictions to the impacts of war and, therefore, protect the groups of people who are not a part of the hostilities. In a more general aspect, in the words of the Eng-



(The ICRC Emblems)

lish philosopher Jeremy Bentham, a collection of rules governing relations between states is known to be **international law**. This highly extensive and broad law consists of the IHL and expects the nations to act correspondingly during the means and methods of warfare. To clarify, it does not hold the power of regulating whether a State may or may not use force. Throughout today, it has rapidly developed into complexes of influential (yet not directly binding) principles, practices, and assertions coupled.

As can be understood from the definition, the IHL is only applicable when there is a situation of declared war between the nations and is both unrelated and inadequate to cover internal tensions such as insurrections, which is an example to an isolated act of violence. In other words, unless at least two States are present and involved in the conflict, the law does not come into operation. If only a single State is present in the issue, only the **human rights law** can be implemented since this set of rules is always applicable including peacetime.

The IHL is an unalienable necessity because of two reasons, which are ensuring the protection of people who are not or no longer participating in the war (civilians, medical personnel; wounded soldiers, war prisoners) and bringing restrictions on the military tactics and use of weapons. However, the quarrel over



the relevance of the aforementioned Geneva Conventions – and, dependently, the international humanitarian law – has been going on for years due to a major change in the war tactics of the world nations and got even more intensified after the terrorist attacks of September 11. Quoting Knut Dörmann, the Head of the ICRC's Delegation to the EU, NATO and the Kingdom of Belgium, “the fight against terrorism may also take other forms of a fight -- a police action, criminal cooperation, and so forth where international humanitarian law is not relevant” (“Sixty Years Later, How Relevant Are The Geneva Conventions?”)

Today, as the war tactics continue to shift from hostile armed conflicts to siege, attacks on hospitals, sexual violence, and unrighteous executions; even though they may not be rewritten, a revision or newly added convention or protocol is crucial for the IHL to have a response for these kinds of conflicts.

Involved Countries & Organizations

International Committee of the Red Cross (ICRC):

Since the beginning of the constitution of the first idea of the Geneva Conventions in 1864, the ICRC has been closely interested in their development. Henry Dunant, the organization's founding father and the Nobel Peace Prize winner of 1901, had proven his vision's accuracy by publishing his book, *A Memory of Solferino*, which proposed a legal basis that would oblige armies to care for all wounded regardless of for which side they are fighting for, before the adoption of the First Geneva Convention. Since then, the ICRC is attempting to make the international humanitarian law adapt to the ongoing changes in warfare, which led up to the other three Geneva Conventions all focusing on different groups of people who carry the potential of becoming victims of armed conflicts. Currently, serving as a humanitarian mandate, the committee directs their work to philanthropic activities such as but not limited to re-uniting separated families or organizing relief operations for food and clean water supply.



(Portrait of Henry Dunant)



United States of America:

On September 11, 2001, a series of coordinated terrorist attacks with the hijacking of four airplanes and 19 militants of the Islamic extremist group al-Qaeda attempting suicide attacks have happened, resulting with the shooting of three targets, one of them being the well-known twin towers of the World Trade Center in New York City. In the following days, it was announced that the attack was a retaliation of the USA's decision to support Israel in addition to the nation getting involved in the Persian Gulf War and Middle East. The 9/11 attacks are a milestone for the debate on the relevance of the Geneva Conventions and, therefore, the international humanitarian law. The then-president of the USA, George W. Bush, addressed these attacks by stating that "thousands of lives were suddenly ended by evil, despicable acts of terror" (Bush).

Another noteworthy occasion would be the suggestion of the Bush government in 2002 to not imply the Third Geneva Convention, which concerns the treatment of the war prisoners, to people who were captured fighters from Afghanistan and shipped to Cuba simply because they were "unlawful combatants", in the words of Donald Rumsfeld, the Secretary of Defense. The USA was later on criticized by the Human Rights Watch with the following statement: "As a party to the Geneva Conventions, the United States is required to treat every detained combatant humanely, including unlawful combatants. The United States may not pick and choose among them to decide who is entitled to decent treatment" ("U.S.: Geneva Conventions Apply to Guantanamo Detainees").

Syria:

The conflict zone that acts like the theater scene of war crimes ranging from the use of starvation as a weapon of war to sexual violence regardless of gender or age is still suffering from the civil war that has been continuing since 2011. Unfortunately, in addition to the occurrence of these ruthless acts, many examples of crimes against humanity consisting of torture, terrorism, and potentially genocide against ethno religious minorities have been and are still exhibiting.

One of the major highlights of this nation regarding the coverage of international humanitarian law is the attacks on health facilities, particularly the airstrikes that hit an Idlib hospital on February 25, 2020. Be-



cause of this offensive, tens of health centers and other humanitarian agencies had to suspend their operations while the treatment of patients in other accessible and operating hospitals is extremely complicated because of the absence of electricity, equipment and medicine. On top of that, it should not be forgotten that children all over the country are suffering from the psychological effects of war summing up to the problems in education, food or clean water, deaths of family members, and different types of violence.

Afghanistan:

An event that comes forward when the relevance of Afghanistan to the international humanitarian law is investigated is the attack on Kunduz Trauma Center on October 3, 2015. Since August 2015, the hospital that has been serving as the workplace of Doctors Without Borders was placed an immense significance since it was the only facility with proper treatment technics while taking care of the Afghan victims of

bomb blasts and gunshots. The hospital was told “the safest place to be”, which was followed by the death of 13 members of the hospital staff during the bomb attack that lasted more than one hour.

Despite the precisely targeted airstrikes that hit the main hospital building for multiple times, the rest of the buildings were comparatively undamaged. Tens of people have been shot dur-



(Kunduz Trauma Center)

ing their attempts to flee the building and arrive at a

safer place to hide until the bombings were concluded. It was confirmed that certain personnel who were in charge of the attack had failed to act accordingly to the law of armed conflict and rules of engagement; however, since “war crimes” are only used for intentional acts, the failures were not determined as examples of war crimes. The International President of the Doctors Without Borders organization, Joanne Lui, stated in their post-bombing speech that “international humanitarian law is not about 'mistakes'” and touched on the necessity of the proper implementation of the Geneva Conventions (Praz).



Detailed Analysis of the Issue

As we get to know some of the major parties that were invested and had been in several situations highly related to the implication of the international humanitarian law, it is now time to have a closer look to the development of the Geneva Conventions, a deeper analysis of the problems with them, and the world nations' stance in this issue.

History of Its Development

International humanitarian law is one of the many branches of the international law. The international law is considered as one of the greatest successes of the United Nations due to its impact to promote economic and social development by buttressing the advancement of international peace and security thanks to its indisputable achievement in governing the relations between the world nations for many years.

The ground logic of the structure was essentially designated during the European Renaissance in spite of the discoveries of several cooperative bilateral and multilateral agreements that date back to ancient Middle East. It is not surprising that as different cultures and groups started to interact a need for such a law that would define the base of norms and rules was felt. The warring era after the collapse of the western Roman Empire in 476 had also impacted a group of nations to emerge and develop sets of rules in an aim to govern interstate relations. With the beginning of the constant evolution of the international law, this complex of principles had gone through dozens of alterations and revisions with the effect of several evolvments, such as the influence of positivism in the 19th century and the attribution of imperialism to this ideology or international political events like the World War II and Cold War. Approaching the 20th century, an increasing amount of human rights defender international organizations – the United Nations being a primary example – started to grow and gain more influence, emphasizing on the human rights.

The establishment of the International Law Commission by the General Assembly in 1947 and their continuous collaborations with the International Committee of the Red Cross, the International Court of Justice, and UN specialized agencies were followed by the revision and writing of a number of conventions, one of them being the Geneva Conventions of today. On August 12, 1949, adopted a new version of the pre-existing humanitarian law treaties and adopt a new one with an aim to protect civilians during times



of war. Additionally, to amend some parts of the conventions, Protocols I (Protection of Victims of International Armed Conflicts) and II (Protection of Victims of Non-International Armed Conflicts) was passed in 1997, becoming its current version.

Sovereignty and Jurisdiction

Correlating to what the definition of jurisdiction refers to, a state holds the power of affecting people, property, and circumstances within its territory. The simplest reason why many of the civil war cases are not resolved is because the international law is only responsible of addressing the questions of criminal law without directly interfering with the actions the national control is going to take. The territorial principle gives legal authority for a State to exercise jurisdiction in a case with the exception of permitting officials from one state to act within another state in certain circumstances.

It is true that the United Nations may utilize at certain levels by suggesting the terms or modalities of a settlement or recommending particular solutions or methods to resolve disputes. Any kind of threat or use of force that will act against the territorial integrity or sovereignty is prohibited the UN Charter; however, these types of methods may be implied for the purposes of self-defense or a UN Security Council authorization. This is another reason why the IHL's impact area is much narrower and influence is limited by the concern of protecting a government's jurisdiction.

Challenges with the Modern World of Warfare

It is still up to debate that whether the IHL is still able to fit its purpose of limiting the consequences of war and ensuring the protection of people in conflict zones. According to the chief legal officer of ICRC, Cordula Droege, "What we see in the news is what doesn't work in IHL, but equally we see every day how the Geneva Conventions do work and do protect civilians" ("Rules for the ages? London debate sets out challenges facing IHL")

However, the way nations are protecting themselves is changing day by day and different methods or war-
ring are coming forward. The world of future where weapons have evolved around the artificial intelligence technology is full of discussions on how to regulate the tensions between the countries.



Most of the time, the debate concludes with the participants agreeing on the continued relevance of IHL and the required neutral humanitarian action on today's battlefields. It is certain that a new regulation that would cover the developments in warfare of the modern world is a need; otherwise, the future may witness more frequent acts of terrorism or unexpected attacks that take place solely because of the regular tensions between the states.

List of Important Events

Date (Day/Month/Year)	Event
June 24, 1859	Henry Dunant witnesses the aftermath at Solferino and organizes a first aid.
February 17, 1863	The foundation of International Committee of the Red Cross (ICRC)
1949	The revision and adoption of the four Geneva Conventions, which created the base of the IHL
1972	Biological Weapons Convention
1977	The modification of the previously adopted Geneva Conventions by Geneva Protocol I and II
1980	Conventional Weapons Convention
1993	Chemical Weapons Convention

Past Attempts to Solve the Issue

The first attempt would be the regularly conducted discussions in order to question whether the international humanitarian law is still relevant to today's world or shall be revised, rewritten, or completely given up on. It would not be wrong to say that many of the results of this debates had always ended by acknowledging the Geneva Conventions shall still be regulated since, even though not everyone, it serves for the benefit of most people. The ICRC is currently working on over 90 countries, primarily in the Middle East and Africa, meaning that composing new protocols or, perhaps, a fifth convention to cover what the other four lacks is not yet an agenda item for the organization.



Apart from helping the victims of war, the ICRC has been and still is working on strengthening the actors of the criminal justice system's internal understanding of IHL by means of organizing online trainings. A recent one had taken place in the Philippines after the passing of three key IHL-related laws to enhance the participants' understanding of the basic and general principles, tenets, and concepts of IHL and related laws. The effects of these types of facilities have not been seen yet, but a long-term solution by implying the values of IHL may enable the future generations to be significantly better in terms of understanding philanthropic concepts.

Related Documents

- [. What is International Humanitarian Law?](#)
- [. Afghanistan, Attack on Kunduz Trauma Centre](#)
- [. International Law Commission Annual Reports](#)
- [. The Geneva Conventions of 12 August 1949](#)

Possible Solutions

In fact, the current belief of ICRC suggests that the daily versions of the Geneva Conventions are the best possible way of regulating the wars in the world, which is correct for most of the part. The conventions are able to answer a majority of the problems of war victims and set proper rules for the way the weapons are going to be used. The best thing to do in order to cover the terrorist attacks, airstrikes, or civil wars would be to separately focus on all of them and try to create influential conventions. The ICRC, however, may not be the best organization to shoulder this duty since their focus area is not entirely related to these and they do not tend to take action on them as much as they do with officially declared international wars. It is also apparent that a classification of events that would be not under the scope of the IHL would have huge benefits on solving this particular issue.

Regardless of how well-written such documents, agreements, or conventions are, they probably will not be able to fully decrease the tensions and skirmishes at the conflict zones. Therefore, using the authority of the Security Council may be a logical idea to bring peace to these zones while being careful to not fully interfere with the sovereignty of the states. The damage of the tensions bring shall be detailly explained and the necessity of taking immediate action should be communicated successfully. The presence of the



International Court of Justice shall also be reminded since if two nations engaged in a conflict were to agree, they may try to solve their issue there. Promoting neutral third parties would also be an effective method to conclude the problems by constituting bilateral and multilateral agreements.

While trying to solve the issue, however, the possible resolutions shall not undermine the significance of the international law and try to benefit from it as much as possible. The aim is not to denounce the branches of this international law but try to develop a proper response mechanism for the unanswered conflicts. The delegates may try to improve and augment the number of trainings that are given by the ICRC in order to be sure that the IHL is introduced well to new generations and people whose professions are strongly related to the application of this law.



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