

## **Human Security between the Guarantees of International Humanitarian Law and Increasing Violations in Times of International Conflict**

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### **Abstract:**

International humanitarian law is the framework that encompasses all international legal provisions, whether legislative or general, that ensure the protection of individuals from hunger, fear and oppression, guaranteeing their security and stability - dimensions of human security. However, the realities observed in the international arena, such as the escalation of international conflicts and interventions in the internal affairs of states under the pretext of protecting human rights (violation of sovereignty), have increased the dependency created by the effects of globalisation. In addition, the intensification of asymmetric threats (environmental issues) and the rise of expansive nationalist tendencies, as well as conflicting national objectives among international entities - between the goals of national expansion, national survival and the denial of national identity - have contributed to a sense of scepticism towards the rules of international humanitarian law. These factors have hampered its ability to establish rules that govern the international system in the promotion of human security, and to effectively address the challenges posed by the dynamics of international relations.

**Keywords:** Human rights, human security, wars, conflicts, sovereignty, dependency, international law.

### **Introduction:**

Conflicts are a complex phenomenon with intertwined political, social and economic backgrounds. They are deeply rooted in human history and represent the contentious aspect of international relations, which encompasses both conflictual and peaceful interactions. It is well known that international disputes have serious implications for human security. This reality has made the challenge of managing international conflicts and keeping them within reasonable limits an imperative for the international community. The aim is to control these conflicts and protect national interests, which leads to a collective effort to mobilise various

available resources - be they political, legal or diplomatic - to manage the dynamics of the conflict at a certain level without escalating into a full-blown war.

Among the mechanisms used to resolve international disputes, in addition to negotiations and mediation aimed at protecting humanity and preserving dignity from oppression, fear, hunger, deprivation and persecution, are the rules of international humanitarian law. These rules serve as a legal reference that outlines the obligations of members of the international community to resolve disputes by peaceful means, thereby avoiding humanitarian disasters. However, national sovereignty has been increasingly undermined by the direction of international relations within the new international system - characterised by the conflicting interests of major powers, the dominance of concepts of globalisation, technological progress, interdependence and the transformation of developing countries into spheres of influence shared by Western nations under the guise of protecting humanity.

All these factors indicate the inability of international law to enforce respect for the fundamental principles of international relations, such as non-interference in the internal affairs of states and respect for national sovereignty. What is happening in many regions of the world has confirmed the inability of international humanitarian law to stop human rights violations under the pretext of spreading democracy, combating terrorism and establishing peace, equality, freedom and justice.

This raises the following question To what extent is IHL prepared to provide guarantees that enhance human security in the face of the escalating severity of international conflicts? What mechanisms can activate the legal framework of IHL and make it binding on all actors in the international community?

In an effort to address the issue objectively, the following hypothesis has been adopted: The erosion of state sovereignty in the face of the legitimacy of intervention in the internal affairs of states under the pretext of the protection of human rights has deprived international law of the binding force necessary for the settlement of international disputes and the protection of humanity.

A number of methods have been used as research tools to help deconstruct the problem of the research paper and to validate or refute the proposed hypothesis. These include the descriptive

method, which is evident in the conceptual framework when defining the main variables of the study, and the historical method, which briefly refers to the background of these concepts.

These and other points will be examined and elaborated in the following analytical points:

### **Chapter One: Conceptual Approach**

The first part of the article is devoted to clarifying the conceptual aspects of the topic by defining the main variables, including the concepts of international humanitarian law, human security and international conflict. This will facilitate a precise determination of the interrelationship between the three concepts, which will be addressed in the following sections:

#### **Section One: The Concept of International Humanitarian Law**

International humanitarian law (IHL) is the branch of public law concerned with the protection of persons not participating in hostilities and of civilian objects, as well as with the regulation and definition of the means and methods used by combatants. The scholar Max Huber is considered the first to officially introduce the term “international humanitarian law”<sup>1</sup>during the Diplomatic Conference on the Development of International Humanitarian Law in Armed Conflicts held in Geneva (1974-1977)<sup>2</sup>.

The concept of International Humanitarian Law has sparked a debate in scientific and academic circles as to its precise definition<sup>3</sup>, especially since it is associated with the protection of humanity against violations resulting from the consequences of armed international conflicts. It can be defined as: “A set of rules and principles that impose restrictions on the use of force during armed conflict, with the aim of mitigating the effects of violence and war”<sup>4</sup>.

In general terms, IHL refers to a set of rules and international legal agreements, whether written or customary, that apply during international and non-international armed conflicts. Its purpose is to prohibit and restrict the means and methods of warfare for humanitarian

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<sup>1</sup>- Salah Al-Din Amer, *The Jurisdiction of the International Criminal Court in Pursuing War Criminals*, Cairo: International Committee of the Red Cross, 2006, p. 444.

<sup>2</sup>- Jaafar Abdul Salam, *International Humanitarian Law in Islam*, Cairo: International Committee of the Red Cross, 2006, p. 49.

<sup>3</sup>- Faleej Ghazlan and Samer Mousa, *A Brief Guide to International Humanitarian Law*, n.d.: DDN, 2019, p. 06.

<sup>4</sup>- Same reference as above, same page.

purposes, while providing protection and assistance to the victims of armed conflict, including civilians and others who are not combatants or incapable of fighting<sup>1</sup>.

From this it is clear that international humanitarian law is based on two main principles:<sup>2</sup>

**1. The principle of military necessity:** this principle seeks to achieve the objectives of war, to weaken the enemy and to secure victory.

**2. The principle of humanity:** This principle aims to prevent any action that goes beyond military necessity by ensuring the protection of those who have not taken part in hostilities or have become incapacitated.

### **Section Two: The concept of human security and its foundations:**

Following the end of the Second World War, a number of developments influenced the field of security studies. The concept of security, which had previously focused on the state and ways to enhance military strength, underwent a significant transformation. This shift shifted the focus from state-centric security to individual security, emphasising the protection of individuals from various violations resulting from the intensification of international conflicts and disputes.

The term ‘human security’ was first formally introduced in the 1994 Human Development Report of the United Nations Development Programme, where it was defined as freedom from fear and want. It stressed that the main causes of human insecurity are poverty, hunger, inequality, violence and conflict<sup>3</sup>.

On this basis, human security can be defined as: “The security of individuals from fear, oppression, violence, marginalisation and freedom from want and deprivation”. More specifically, it means: “The ability of people to exercise their choices in safety and freedom”<sup>4</sup>.

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<sup>1</sup>- Caroline Thomas, *Global Governance, Development and Human Security*, London: Pluto Press and Arawak Publication, 2000, p. 09.

<sup>2</sup>- Mshri Salma, “Human Security and Human Rights: From Exclusion and Marginalisation to Empowerment”, *Journal of Law and Political Sciences*, No. 10, 1 June 2018, p. 54.

<sup>3</sup>- Same reference as above, same page.

<sup>4</sup>- Jamal Ben Marar, “Humanitarian Intervention and the Issue of Sovereignty,” *Route Educational Social Science Journal*, Vol. 07, No. 01, January 2020, p. 348.

In essence, the concept of human security encompasses the protection of basic human rights necessary for human survival and development<sup>1</sup>.

Human security is an indicator of the extent to which human rights are respected and realised in reality. While the concept of human rights focuses on the establishment of laws and regulations to clarify these rights, human security focuses on how to reform institutions to ensure the security of individuals and improve guarantees for the realisation of human rights, which are constantly deteriorating, especially in the context of escalating international conflicts<sup>2</sup>.

According to the 1994 report of the United Nations Development Programme, human security consists of several foundations or dimensions, the most important of which are:

- 1. Food security:** This refers to the availability of food in all its aspects (adequacy, distribution, quality)<sup>3</sup>.
- 2. Health security:** This includes ensuring access to health care and improving health care standards<sup>4</sup>.
- 3. Environmental security:** This refers to the absence of environmental threats that significantly affect the health and safety of people, particularly in the face of rising pollution levels and global warming due to increased greenhouse gas emissions. This has led to climate change affecting water supplies and food resources.
- 4. Economic security:** This focuses on increasing the per capita share of gross national income and improving purchasing power.
- 5. Community security:** This aims to protect public order and establish security and tranquillity, especially in the context of social fragmentation, rising unemployment, widespread corruption, the spread of extremist ideas and the growing phenomenon of illegal migration.

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<sup>1</sup>- Hager Khelifa, "Food Security: Between the Issue of Multiple Contents and Growing Threats," Mediterranean Notebooks, Vol. 02, No. 01, 2015, p. 16.

<sup>2</sup>- Hussein Abdullah Al-Dajjah, "Threats to Human Security", Algerian Journal of Human Security, No. 04, July 2017, p. 131.

<sup>3</sup>- Mohamed Ahmed Abdel Ghafar, Conflict Resolution in Western Thought and Practice: A Critical Analytical Study, Algeria: Dar Humeh for Printing, Publishing and Distribution, Volume 1, First Edition, 2003, p. 237

<sup>4</sup>- Raqouli Karim, "International Conflict and Management: A Conceptual Knowledge Approach", Journal of Legal and Political Research, No. 01, September 2019, p. 97.

### **Section Three: Definition of international conflicts and their escalating factors:**

In attempting to provide an objective scientific definition of the concept of conflict, we must note that the term carries several meanings, including: struggle, collision, contradiction, and discord. It is well known that international conflicts often lead to the emergence of a new political landscape in the realm of international politics and affect the balance of power in the international order. This may raise some legal questions about its definition. However, this does not prevent us from presenting several definitions.

International conflict can be defined as “the pursuit of conflicting objectives by multiple groups, using either peaceful means or armed force<sup>1</sup>”. It can also be described as: “a clash of interests, often sudden, between two or more parties, leading to an escalation of positions aimed at preserving threatened interests, with the threat or actual use of various forms of pressure, whether political, economic or military”<sup>2</sup>.

In general, international conflicts differ in their nature, causes, motivations and objectives. This gives rise to a variety of conflicts, ranging from minor to fundamental. The background to these conflicts is complex and intertwined<sup>3</sup>, and we can highlight some of the most important factors as follows:

**Civilizational differences:** These are considered to be among the most important factors fueling international conflicts, often more intense and impactful than ideological differences.

**Conflict of interests:** As long as interests remain the primary driver of international interactions, there are no lasting enmities or friendships, only lasting interests.

**Strengthening spheres of influence:** The pursuit of strategic regions and attempts to control them is a valid reason for the outbreak of international conflicts. This raises discussions about geopolitical dynamics, control of oceans and points of entry, control of resources and strategic locations, all of which drive nations to engage in conflict to secure their interests.

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<sup>1</sup>- The term 'secondary conflict' refers to a secondary conflict that is not related to national existence. A "fundamental conflict", on the other hand, is a zero-sum conflict that leads to the elimination of one of the parties to the conflict. This is exemplified by the Cold War, which ended with the dissolution of the Eastern bloc and the global dominance of the Western bloc led by the United States.

<sup>2</sup>- Mbatoch Ali Al-Haj and Issa Ali, “The Impact of Armed Conflicts on Environmental Security,” Scientific Research Journal in Environmental Legislation, No. 08, January 2017, pp. 162-163.

<sup>3</sup>- Ashour Moussa, “The Impact of Armed Conflicts on the Rise of Illegal Migration,” Algerian Journal of Legal, Economic, and Political Sciences, Vol. 53, No. 01, 2016, p. 510.

**Cultural divisions between nations:** These divisions have become evident in various recent international developments, leading to a situation where the unified Western world within the liberal system contrasts sharply with a multitude of non-Western states that lack cohesion.

## **Chapter Two: Human security in the face of escalating international conflicts**

The second part of the article focuses on the magnitude of the impact of international conflicts on humanity and the disruption of human and community security within states. This disruption is reflected in the severity of asymmetric threats such as illegal migration, human trafficking, rising poverty rates, oppression, social deprivation and marginalisation. On the other hand, this section highlights the main challenges to the activation of IHL in armed conflicts. These points are developed in the following sections.

### **Section One: The impact of international conflicts on human security**

The discussion of the impact of international conflicts on human security falls within the framework of the impact of State-related threats, as the protection of humanity is hampered by both State-related determinants, primarily driven by conflict, and non-State determinants associated with transnational phenomena or so-called cross-border issues that transcend the sovereign boundaries of States.

In this context, we will examine the main negative effects of international conflicts on efforts to protect individuals and enhance their rights and freedoms:

**1. Diminishing regenerative capacity of environmental resources:** The ability of ecological systems to regenerate is critical to human security. Environmental integrity is one of the primary determinants of human security, as energy resources serve as a key driver of military power in armed conflicts. These resources can significantly influence the achievement of military objectives or alter the course of military operations<sup>1</sup>.

**2. Increased human displacement: Increasing rates of human displacement,** often referred to as forced displacement of civilians, are occurring despite the fact that international humanitarian law stipulates that civilian objects may not be attacked or seized without

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<sup>1</sup>- Jamal Ben Marar, "The Concept of Sovereignty in Light of International Changes," Algerian Journal of Law and Political Science, No. 04, December 2017, p. 422.

justifiable military necessity. This contradiction raises serious concerns about the protection of individuals in conflict<sup>1</sup>.

**3. Increase in illegal migration:** The phenomenon of illegal migration has increased sharply, with many countries, such as Algeria, becoming transit points for African migrants in search of better living conditions and security. This situation can have a negative impact on social cohesion and the unity of the internal front, as these migrants are often perceived as a direct threat to community security in the host countries.

**4. Spread of poverty, hunger, disease and epidemics:** Armed conflicts severely damage the economic sector of the parties involved, leading to a deterioration in living standards, a reduction in individual incomes, layoffs and rising unemployment rates. Although international armed conflicts can increase the demand for energy - as in the Russian-Ukrainian conflict, where oil prices rose to the benefit of rentier economies - this is often at the cost of widespread human suffering.

**5. Disruption of national identity:** International conflicts can undermine the constants of national identity, accelerating the decline of the nation-state in favour of the dominance of multiple ethnic entities. This fragmentation poses significant challenges to social cohesion and political stability<sup>2</sup>.

**6. Lack of food security:** A large proportion of the population is at risk of hunger, particularly in regions such as the Sahel and the Horn of Africa, where ethnic and racial conflicts have escalated into non-international armed conflicts. This situation has turned food into a bargaining chip for some nations. In particular, Algeria is currently facing food security challenges in the context of the Russian-Ukrainian crisis, which has significant implications for agricultural production and food supply, as both countries are major wheat exporters.

## **Section Two: Challenges to the application of IHL in armed conflicts**

The declining effectiveness of IHL in protecting and promoting human rights and ensuring respect for them by various actors in the international community can be attributed to a number of multidimensional constraints that impede the implementation of preventive and

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<sup>1</sup>- Hager Khelifa, Reference Previously Mentioned, p. 27.

<sup>2</sup>- Louchan Dalal, "Challenges in Enforcing the Global System for Protecting Human Rights from a Legal Perspective," Algerian Journal of Security and Development, No. 01, July 2011, p. 145.

protective measures for humanity, particularly during international conflicts. These challenges can be summarised as follows:

**1. Proliferation of international and regional bodies:** The presence of numerous international and regional organisations and the diversity of human rights texts make it difficult to act in a unified manner and to interpret legal provisions in a uniform manner. This fragmentation complicates the enforcement of human rights protection<sup>1</sup>.

**2. The concept of international cooperation:** The idea of international cooperation is based not only on the confrontation with informal global organisations, but also on emerging human rights regimes, such as environmental rights. The enjoyment of these rights is not limited by state sovereignty; pollution in one area affects the right of all humanity to live in a clean environment. This issue has been highlighted by rapid climate change, resource scarcity and the deterioration of human health<sup>2</sup>.

**3. Inadequate legal protection for humanitarian aid:** Many national laws do not provide adequate legal protection for humanitarian aid convoys, which are often attacked, preventing them from carrying out their work freely and effectively<sup>3</sup>.

**4. Conflict between international humanitarian law and human rights law:** The overlap, and sometimes conflict, between the rules of international humanitarian law and those of international human rights law creates complexity as to which legal framework should be applied during armed conflict. This ambiguity can lead to inconsistencies in the protection of the rights of individuals in conflict zones<sup>4</sup>.

**5. Failure of the UN Charter to keep pace with evolving armed conflicts:** The UN Charter has not adequately adapted to the new realities of armed conflict, despite the increase in

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<sup>1</sup>- Same reference as above, p. 146.

<sup>2</sup>- Boulefa Toufik, "Obstructing Humanitarian Work During Armed Conflicts: Between Reality and Protection Mechanisms," *Mediterranean Notebooks*, Vol. 06, No. 01, June 2021, p. 146.

<sup>3</sup>- "Requirements, Constraints, and Impacts Related to the Concurrent Application of International Human Rights Law and International Humanitarian Law in Armed Conflict," *International Legal Protection of Human Rights in Armed Conflict*, United Nations Human Rights Council Report, 2012, p. 125.

<sup>4</sup>- The legal system governing the work of United Nations bodies was established after the end of World War II, aligning with a model for managing and resolving international armed conflicts, which renders it incapable of adapting to the pattern of non-international armed conflicts.

violations of international humanitarian law due to the growing frequency of non-international conflicts<sup>1</sup>.

**6. Lack of balance in UN decision-making:** Observations indicate that the decisions of the UN General Assembly are merely recommendations that lack sufficient binding authority to maintain international peace and security. This undermines the effectiveness of the UN in dealing with conflicts<sup>2</sup>.

**7. Dominance of the liberal system in international bodies:** The establishment of the international political system coincided with the creation of the United Nations in 1945, turning it into a mechanism for the dominance and control of the major powers that have veto power in the Security Council. This has had a negative impact on the organisation's work in international conflicts, as its decisions often consist of inaction rather than effective measures to resolve disputes, instead resorting to the appointment of a special envoy for conflict resolution.

**8. Delay in accession and ratification of international agreements:** States often delay the signing and ratification of international treaties, with obligations only arising from the signing or exchange of documents, acceptance or accession to the treaty. This delay hinders the implementation of necessary legal frameworks for the protection of human rights during armed conflict<sup>3</sup>.

**9. The complexity of the relationship between international humanitarian law, human rights law and international criminal law** is considerable, despite the similarities between them. This complexity stems from the different foundations on which these branches are based, leading to ambiguities due to their overlap as well as different legal interpretations. Such ambiguity has hindered and reduced the level of legal protection during armed conflicts, further widening the gap between the provisions of IHL and what happens in practice.

### **Section Three: Ways to activate international law as an effective deterrent against escalating international conflicts**

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<sup>1</sup>- Zaha Ezzat, Contemporary International Organizations, Cairo: Dar Al-Nahda Al-Arabiya, 2005, p. 60.

<sup>2</sup>- Youssef Amal, Lessons in International Humanitarian Law, Algeria: Dar Balqis for Publishing, 2010, p. 29.

<sup>3</sup>- Louchan Dalal, Reference Previously Mentioned, p. 148.

The human rights system has evolved and gained the attention of international actors through concerted efforts to protect these rights. These efforts have resulted in the recognition of the universality of human rights and the creation of new guarantees based on the need for equality among all inhabitants of the earth. However, this has not prevented violations of these rights. The international community and international humanitarian law have struggled to put an end to human rights violations, despite the establishment of a comprehensive global system and the unification of standards, definitions and practices in all states.

This situation can be explained simply by the lack of the necessary mechanisms to generalise these standards to all peoples. Therefore, the activation of the rules of international humanitarian law during armed conflicts, in order to ensure the protection and respect of individuals, as well as the provision of the necessary means to sustain their lives, depends on the consideration of the following procedural steps:

1. Mobilising international efforts for development requires the establishment of security and stability, as there can be no development without security. Armed conflicts have led to the collapse of many political systems, the displacement of many populations, and have provided fertile ground for racial minorities, ideological and economic leadership, the desire to control resources and wealth, and an arms race. The existence of conflicts requires the possession of means (force) that divert the energies and efforts of many states. Instead of using their resources to develop their communities, they are used for military purposes. Consequently, violations of human rights are always linked to the absence of development and security<sup>1</sup>.
2. There is a need for a commitment to disseminate the rules of international humanitarian law in international agreements in order to facilitate their activation during armed conflicts. This need was emphasised by the Geneva Convention of 1949, which called upon States to disseminate and apply the provisions of international humanitarian law on a wide scale<sup>2</sup>.
3. The appointment of legal advisers facilitates the explanation and understanding of the provisions of IHL.
4. The existence of a strong political will is essential to activate the provisions of international humanitarian law, in particular to enact the necessary legislation to enforce international

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<sup>1</sup>- Said Abdul Latif Hussein, *The International Criminal Court*, Cairo: Dar Al-Nahda Al-Arabiya, 2004, p. 176.

<sup>2</sup>- Omar Maki, *International Humanitarian Law in Contemporary Armed Conflicts*, Geneva: International Committee of the Red Cross, n.d., p. 07.

agreements at the national level. The absence of national legislation governing the conduct of hostilities, the protection of persons and property during armed conflicts, whether international or not, and the prosecution of war criminals makes it impossible for States to fulfil their role in respecting and ensuring compliance with IHL.

5. Strengthening national legislation with specific IHL provisions is necessary to enable the prosecution of war criminals and crimes against humanity and to enforce international agreements at the national level. The absence of provisions on international humanitarian law in national legislation renders them incapable of criminalising violations and forces them to relinquish their jurisdiction in favour of international tribunals or even the national courts of other States which have fulfilled their treaty obligations to criminalise serious violations of international humanitarian law, thus enabling them to extend their jurisdiction to nationals and soldiers of other States under the principle of universal jurisdiction<sup>1</sup>.

6. Integration of the fundamental treaties of the law of armed conflict and international human rights law.

7. Adapt the national legal system to enable states to fulfil their international obligations to prevent local violations of human security.

### **Conclusion:**

Based on what has been presented in this article, it is clear that the evolution of contemporary international conflicts has posed a challenge to the application of the rules of international humanitarian law. However, this does not preclude the need to seek mechanisms to ensure the effective application of IHL during armed conflicts in order to provide the best possible protection for humanity. Therefore, compliance with the rules of international humanitarian law in the management of international conflicts, and consequently putting an end to violations against humanity and violations of various documents, treaties and agreements related to the protection of human rights and the preservation of human dignity, is based on the following measures:

- To promote and improve knowledge of international humanitarian law among academics, judges, armed combatants, humanitarian NGOs, international organisations and the media, in

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<sup>1</sup>- Same reference as above, same page.

order to identify the most effective practical methods of regulating contemporary armed conflicts and promoting human dignity.

- To establish the concept of collective international responsibility of various actors in the international community for the full application and enforcement of the rules of international humanitarian law. This is in line with the efforts of the International Committee of the Red Cross, which has initiated numerous actions based on the concepts of prevention and response to ensure respect for international humanitarian law and to make a decisive contribution to ongoing efforts to reaffirm and develop it.
- Strengthening accession to the fundamental treaties on the law of armed conflict, international humanitarian law and international human rights law.
- Adaptation of the legislative system at the national level to enable the implementation of international obligations aimed at deterring violations that undermine human security.

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