

Relevance of International Humanitarian Law in International Relations: National and International Contexts

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Abstract

International Humanitarian Law (IHL) holds significance within the realm of international relations which encompasses various disciplines such as international law, diplomacy, and interactions among national and international entities. The prevalence of over 100 armed conflicts underscores the imperative for parties involved in conflicts and other influential actors to comprehend IHL. In the face of ongoing armed confrontations worldwide, the continued relevance of IHL in shaping international relations becomes apparent. States must prioritize the promotion of respect for IHL to establish a robust international relations system. This article endeavors to explore the interconnectedness of IHL with international relations and assess its importance. The study will delve into the role and significance of IHL in the context of international relations, with a particular focus on Nepal, where the Ministry of Law and Justice assumes a leading and coordinating role in promoting IHL. The study involves an extensive review of pertinent literature on international humanitarian law and international relations, primarily sourced from online publications.

Keywords: International humanitarian law, international relations, united nations, international committee of the red cross, armed conflict, geneva conventions

Introduction

International relations refers to the study of interactions between sovereign states, as well as the roles of other actors, such as international organizations, non-governmental organizations, and individuals, in the global system. It is a multidisciplinary field that draws from political science, history, economics, sociology, law, security and other disciplines to analyze and understand the complex dynamics that shape the behavior of actors on the international stage. In short, the study of international relations is an attempt to explain behavior that occurs across

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the boundaries of states, the broader relationships of which such behavior is a part, and the institutions (private, state, nongovernmental, and intergovernmental) that oversee those interactions (University of Wisconsin–Madison, 2024). Diplomacy is a fundamental tool in international relations, involving negotiations, treaties, and agreements between states. The analysis of foreign policy decisions and strategies is crucial to understanding state behavior.

The structure of global order underwent significant transformations in the post-WWII period. Initially marked by a bipolar dynamic between the United States and the Soviet Union during the Cold War, the world entered a phase of unipolarity after the collapse of the former in 1989, with the US emerging as the sole superpower. Subsequently, the landscape evolved into a complex multipolarity following the global financial crisis in 2008. Josef Borell, Vice President of the European Commission, describes the transition, “Over the last three decades, we have seen a rapid transformation in the distribution of power around the world. We went from a bipolar configuration between 1945 and 1989 to a unipolar configuration between 1989 and 2008, before entering what we today could call complex multipolarity” (Borrell, 2024).

The primary actors in international relations are sovereign states. The behavior of states, including their foreign policies, diplomacy, and interactions with other states, is a central focus of international relations. The distribution of power among states and the mechanisms through which states seek to influence each other are critical considerations. This includes military power, economic strength, and diplomatic influence. International Organizations like the United Nations and the World Bank play significant roles in international relations. These organizations facilitate cooperation, coordination, and governance on a global scale. Beyond states, INGOs, multinational corporations, international advocacy groups, the International Red Cross and Red Crescent Movement contribute to shaping international relations. They influence global issues and policies alongside states.

The Constitution of Nepal states international law as an element of international relations in pursuing an independent foreign policy. International law includes IHL. The policy relating to international relations 51 (m) is enshrined in The Constitution of Nepal as - to conduct an independent foreign policy based on the Charter of the United Nations, non-alignment, principles of *Panchasheel*, international law and the norms of world peace, taking into consideration of the overall interest of the nation, while remaining active in safeguarding the sovereignty, territorial integrity, independence, and national interest of Nepal (Commission, 2015).

IHL, also known as the law of war or the law of armed conflict, plays a crucial role in international relations. It is a branch of public international law that consists of rules

that, in times of armed conflict, seek – for humanitarian reasons – to protect persons who are not or are no longer directly participating in the hostilities and to restrict means and methods of warfare. In other words, IHL consists of an international treaty or customary rules (i.e. rules emerging from state practice and followed out of a sense of obligation) that are specifically meant to resolve humanitarian issues arising directly from armed conflict, whether of an international or non-international character (ICRC, 2024).

IHL has two branches: the ‘Law of Geneva’, which is the body of rules that protects victims of armed conflicts, such as military personnel who are hors de combat and civilians who are not or are no longer directly participating in hostilities. The ‘Law of The Hague’, is the body of rules establishing the rights and obligations of belligerents in the conduct of hostilities, and which limits means and methods of warfare (ICRC, 2024).

Despite the aspirations of the people expressed through the 1945 United Nations Charter for a war-free world, it is still beyond reach (United Nations, 2024). Armed conflict is a reality of today. According to the International Committee of the Red Cross (ICRC), there are over 100 ongoing conflicts involving 60 states and over 100 non-state armed groups (ICRC Twitter, 2024). The recent increase in hostilities between Israel and Hamas, as well as the tensions between Russia and Ukraine, have not only affected the citizens of these nations but also had repercussions on other countries. IHL plays a crucial role during armed conflicts, obligating the involved parties to uphold its principles. Entities such as the ICRC and the UN work towards ensuring the proper adherence to IHL to alleviate human suffering in such situations. The ICRC remarked on the situation as “The international humanitarian law is the most complete and practical tool at our disposal to ensure the protection of civilians and to pave the way for de-escalation. ICRC urges the international community to ensure its full implementation. We are confronted with a catastrophic moral failing – one that the world must not tolerate. We cannot accept absolute hostility to the point of dehumanization of the other side” (ICRC, 2024).

Nepal amidst International Actors

Nepal holds geopolitical and strategic importance due to its unique geographical location and historical significance. Nepal is situated between two major powers, India and China. This crucial geostrategic position can influence the dynamics between these two Asian giants. Nepal is endowed with numerous rivers and water resources. The rivers originating in the Himalayas flow into India, contributing significantly to the water supply of northern India. This makes Nepal strategically important in terms of water cooperation and management. A stable Nepal is in the interest of neighboring countries and the broader region. Nepal needs to develop

a balanced foreign policy that addresses the legitimate concerns of both the neighboring countries.

In addition, climate change is recognized as a global challenge with implications for international relations. Countries are increasingly cooperating on climate-related issues, and environmental considerations are influencing diplomatic relations and resource competition. Nepal made a maximum effort to take advantage of the recent COP28 held in the United Arab Emirates. 198 parties have united behind the UAE consensus (COP28, 2024).

International Humanitarian Law and Nepal

IHL is a distinct legal framework, or *lex specialis*, designed to tackle the humanitarian aftermath of armed conflicts. It is utilized in conjunction with pertinent human rights instruments during the transitional justice process. The goals of transitional justice include uncovering the truth, prosecuting perpetrators, providing reparations to victims, and instituting reforms to prevent future abuses. It is a holistic approach that combines legal, social, and political mechanisms. Transitional justice mechanisms may include truth commissions, criminal prosecutions, reparations programs, institutional reforms, and memorialization efforts. These mechanisms aim to address past injustices and promote a more just and stable society during the period of transition.

Compliance with IHL reflects a commitment to certain ethical standards in the conduct of war. IHL contributes to accountability on the international stage. States that violate IHL may face legal consequences, including potential prosecutions by international tribunals. This accountability helps deter violations and reinforces the rule of law in international relations. IHL is closely connected to the broader human rights framework. It reinforces the idea that even in times of armed conflict, certain fundamental human rights must be respected and protected. Adherence to the rules of war can help de-escalate tensions, build trust between conflicting parties, and create conditions for peaceful resolution. IHL fosters international cooperation by providing a common set of rules that states can agree upon. The development and evolution of IHL contribute to the broader evolution of international norms and standards. It reflects the international community's ongoing efforts to adapt to changing circumstances, technologies, and challenges related to armed conflicts (ICRC, 2020).

The 1949 Geneva Conventions and their Additional Protocols form the core of international humanitarian law, which regulates the conduct of armed conflict and seeks to limit its effects. They protect people not taking part in hostilities and those who are no longer doing so. Article 1 common to the 1949 Four Geneva

Conventions obliges the states – “The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances”. The rules of IHL are equally applicable to non-state armed groups. The growing prevalence and fragmentation of armed groups globally present a challenge to adhering to and complying with these rules (ICRC-War and Law, 2024).

All states, including Nepal, are signatories to the 1949 Geneva Conventions. Nepal formally joined the Conventions on February 7, 1964. In addition to the Geneva Conventions, Nepal is a party to various other instruments related to IHL. These instruments include the 1925 Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous, or Other Gases and of Bacteriological Methods of Warfare, the 1972 Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and their Destruction, the 1989 Child Rights Convention, the 1993 Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and their Destruction, and the 2000 Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (ICRC, Treaties and States Parties, 2023).

Nepal Communist Party (Maoist) ended its decade-long armed insurgency in 2006 through a comprehensive peace agreement with the government. Despite the cessation of hostilities, the transitional justice process remains incomplete, prompting international concern over the prolonged delay. Nepal, having recently emerged from the insurgency, could enhance its commitment to international humanitarian law principles by considering the ratification of key instruments such as the additional protocols of the 1949 Geneva Conventions and the 1998 Rome Statute of the International Criminal Court. Taking this step would not only contribute to concluding the transitional justice process but also bolster Nepal’s credibility in the realm of international relations.

In 2023, the ICRC estimated that 195 million persons live in areas under the full or fluid control of armed groups. There are more than 450 armed groups of humanitarian concern worldwide. Most of these armed groups are located in Africa (36% / 164 groups) whereas it is only 18% (83 groups) in Asia and the Pacific (ICRC, 2024).

The significance of IHL extends to United Nations peacekeepers, as highlighted by the issuance of the Secretary-General’s Bulletin in 1999, outlining the adherence of United Nations forces to IHL (UN Digital Library, 2024). This bulletin clarified the applicability of IHL to UN peacekeeping forces. Nepal ranks first globally in peacekeeping troop contribution. Presently, the Nepali Army deploys more than 6,000 troops worldwide in various peacekeeping missions. A thorough understanding

of IHL and its conscientious application by the troops is crucial. Police forces also require proper orientation on IHL. The UN has acknowledged and commended Nepal's substantial contribution to peacekeeping missions, elevating its standing in the realm of international relations (NA BPOTC, 2024).

To sum up, IHL serves as a critical component of international relations by addressing the humanitarian aspects of armed conflicts, promoting ethical conduct during wars, and contributing to the broader goals of peace, security, and respect for human rights in the international system.

Conclusion and Recommendations

International humanitarian law constitutes a significant factor to take into account in the practice of international relations by sovereign states. As a facet of public international law, IHL is acknowledged as a component of foreign policy and diplomacy. It is crucial to advocate for the understanding of IHL among state authorities, diplomats, and security forces, especially given the numerous conflict situations around the globe today. States should actively endorse fundamental rules of warfare before potential conflicts arise, contributing to a state of readiness that diminishes human suffering during wartime. Additionally, states are obligated to collaborate and cooperate to guarantee adherence to and respect for IHL.

The field of international relations is a diverse study that involves the interactions among states, as well as intergovernmental organizations such as the UN, along with both national and international entities. Within this interdisciplinary context, international humanitarian law plays a significant role. Given the prevalence of various forms of armed conflicts in numerous countries, IHL remains pertinent to international relations. States that are parties to the Geneva Conventions are urged to take a proactive stance in promoting IHL as a preventive measure. This preparedness is essential in minimizing harm and casualties in the event of an actual conflict. Nepal's enhanced ratification of IHL instruments, coupled with the successful conclusion of the transitional justice process, will positively shape Nepal's image in the realm of international relations.

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