

# Interaction of Human Rights and Humanitarian Law on the Protection of Refugees

Ali Mohammadi Fateme zahmati

Department of Law, Damghan Branch, Islamic Azad University, Damghan, Iran

## Abstract

International legal system and international organizations have been engaged. International legal system, certain methods to deal with victims in certain circumstances has created. international committee of the red cross is responsible for the implementation of the four geneva conventions and their additional protocols. high commissioner for human Rights is responsible for dealing with victims of human rights violations and the UN high commissioner for Refugees (UNHCR) is responsible for handling the rush are mandatory. in this paper the interaction between human rights and humanitarian law on the protection of refugees in armed conflicts is investigated and analyzed.

**Keywords:** Humanitarian law, International legal system, Judicial guarantees, court opinions, UNHCR

## Introduction

techniques of interpretation and implementation of each of these two categories of legal rules exist, these differences are maintained. Interaction and interplay between the two, in support of human rights and humanity has doubled. On the other hand, the behavior promote and protect the rights of the individuals concerned. Despite the proximity between human rights and humanitarian law, the two are distinct in several ways, particularly in the following aspects: ▪ In terms of resources and threads forming the sources of Human Rights, the Covenant on Civil and Political Rights and the Covenant on Economic, social and humanitarian law adopted in 1966, but the documents, the Geneva Conventions and the Hague Conventions of 1949 and other similar documents. ▪ In terms of international responsibility, the responsibility for human rights violations, but only governments are responsible for violations of international humanitarian law, in addition to government regulations, including those that are delinquent. ▪ UN human rights framework is formed outside the UN humanitarian law have arisen, particularly the International Committee of the Red Cross, in the latter case it has worked. Today we face a crisis in many parts of the world and those who have no role in this crisis are the main victims. Designed to provide maximum support of the people, it is essential that the various legal instruments are used, so in recent years have witnessed a gradual blurring the boundaries between human rights and humanitarian law are. But before the 40s, human rights and humanitarian law in the preparatory work at the graduate to adjust the UDHR and the Third Committee of the UN General Assembly meeting in order to adjust the initial design of the Universal Declaration of Human Rights, does not exist. In other words, given that human rights have to be adjusted in terms of this Act, will apply during armed conflict. Officials and members of the Committee of the Red Cross did not explicitly answer this question. it was hard not to use force when adjusting the Universal Declaration of Human Rights, the war would think. International Committee of the Red Cross officials also feared that the law of armed conflict, human rights take on color, because human rights are regarded as a purely political rights, whereas the International Committee of the Red Cross, the principle of neutrality as one of the fundamental principles of his own work. Is there a link between human rights and humanitarian law? And if yes, what is the relationship between human rights and humanitarian impact on development will be? To answer this question, this paper is the assumption that human rights and humanitarian law have the same goals and aspirations. Their primary purpose is the development of human rights in all circumstances and in all disputes and conflicts are. So these two, instead of competing or conflicting roles in communicating and interacting with each other and will influence the development of human rights and humanitarian law.

## Areas of cross-linking between human rights and humanitarian

The first step is conducted in the vicinity of these two rights, in connection with the war between the Arabs and Israel. Israeli forces in June 1967, it occupied the West Bank of the Jordan River. for a given occupation in time of armed conflict has predicted. Naturally, if Israel does not consider these territories as occupied territory, the implementation and enforcement arrangements are contained in the Fourth Geneva Convention will refrain. To deal with this reality, the United Nations Security Council resolution on 14 June 1967 issued an important cornerstone somewhat near the part of public international law. Council Resolution 237, clearly states that human rights are fundamental human rights should also be applied in times of war and state of war, shall not suspend the implementation of human rights. Following the issuance of this resolution, the position of the United Nations General Assembly. Assembly in resolution of the Arab-Israeli war, during a special session on the crisis passed, the implementation of the principles contained in the Third and Fourth 1949 Geneva Convention calls. {4} A year after the issuance of the United Nations Security Council Resolution 237 and the 2252 United

Nations General Assembly, a conference in Tehran to mark the twentieth anniversary of the Universal Declaration of Human Rights was held. The Conference Resolution 23 dated May 12, 1968, entitled "Human rights in armed conflict" was adopted. This conference is in line with the resolutions of the Security Council and the General Assembly emphasized that during the armed conflict, human rights must be respected. The resolution of the Secretary-General wishes to invite the following: A) measures that better enforcement of international humanitarian treaties provide in armed conflict. B) the need to ratify the Treaty rules on humanitarian or other possible revisions of existing treaties to ensure better protection of civilians. "5} In the autumn of the same year, the provisions of this resolution by the General Assembly in its resolution were approved another [6] and in the following year, the UN Secretary-General's report entitled "Human Rights in Armed Conflict" was presented. [7] Accordingly, in 1967 as a milestone in establishing a relationship between the United Nations and international humanitarian law can be considered. In this context, humanitarian law, human rights have been inspired and influenced. New instruments of humanitarian law, in other words the Additional Protocol I and Protocol II to the Geneva Conventions of 1949 have been unresponsive to human rights. The two protocols were adjusted during the debate that human rights should be applied during the war, was introduced. Just like human rights, humanitarian law, a large part of people's rights to their countries authorities (Article 75 of Protocol I to the Geneva) are included. Convergence of human rights and humanitarian law is very clear on the principles common to be determined: 1) protection of the right to respect for life and physical integrity guarantees. 2) the principle of non-discrimination in all forms of discriminatory behavior that is condemned. 3) The principle of the right to personal security to human security grants.

#### **Convergence of the rules of humanitarian law and human rights**

are. into a set of statements that are common enough to be understood. "[8] However, enumerating the acts that human behavior does not fit in easier and more urgent. So many of the functions are strictly prohibited. These actions are listed as common in article III include: A) violence to life in a clear, especially homicide, in all its forms, body mutilation, cruel treatment and torture; B) taking of hostages; C) damage to the dignity of persons, including humiliation; D) The conviction and death without a court order to qualify for the judicial guarantees essential civilized nations know. {9} Here are the similarities between the language used in them with the rights proclaimed in the Universal Declaration of Human Rights, noted. Red Cross in the interpretation of this provision states: "The value of the field that deals with Article 3, is not limited. This material is the minimum that should be applied in the ageless struggle most shows. Its content should be highly respected in international conflicts. " life and the prohibition of murder (Article 6 of the Convention) and the prohibition of torture and cruel, barbaric and humiliating medical and scientific on persons (Article 7 of the Convention) is not specifically mentioned in Article 3. In this interpretation of Article 3 points out that: "... one of the biological tests applied under section A (amputations, torture and barbaric behavior) is ... {10} Common Article 3 prohibits slavery has been absolutely prohibited under Article 8 of the Convention on does not, however, prohibit the taking of hostages is the way in armed conflicts, are included. But in the first and second Protocols Additional to the 1949 Geneva Conventions, 1977, ratified Protocol No. 1 has been assigned to international armed conflicts, as guaranteed in Article 75 of the Protocol early, at the beginning of the article that people who the four protocols and conventions are not supported by the support structure-*ie*, the person will not be considered. And must ensure that the rights envisaged in Article 75 of Protocol No. 1 benefit. In this article, murder, inhumane treatment, torture, corporal punishment, mutilation, hostage taking and collective punishment prohibited and emphasized that the presumption of innocence must be considered and tried to be in his presence. Article 75 of the Protocol is virtually no difference between the promise of the Universal Declaration of Human Rights are Human Rights. {11} The second protocol, capable of simultaneous application of humanitarian law and human rights instruments relating to armed conflict, humanitarian law instruments for the first time explicitly recognized. The second paragraph of the introduction of the protocol states that "the international instruments relating to human rights and provide initial support for the human person." The rules relating to the "humane treatment" of the protocol are presented in three categories: basic rights that protect individuals (guarantees under Article 4) are linked, which guarantees about the behavior rules applicable to persons deprived of their freedom (Madh5) and judicial guarantees (Article 6 of the prosecution) to stipulate. that: 1) violation of the life, health, physical and mental well-being of persons, in particular murder and barbaric treatment such as torture, mutilation or any form of corporal punishment body; 2) collective punishments; 3) taking of hostages; 4) Apply Terrorist; 5) an affront to human dignity, in particular humiliating and degrading treatment, rape, forcing into prostitution; 6) slavery and the slave trade in all its forms; 7) looting; 8) threatening to do any of the above actions. {12} Article 6 of the Courts of Justice in respect of the guarantees of Article 14 of the International Covenant inspired civil and political rights of fair trial, that such an arrangement that is suspended in Article 4. Article 4 of the International Covenant on Civil and Political Rights states that, in this case: cases involving violations of the provisions of the Covenant and the arrangements and commitments. "However, Article 4 of the Convention specifies that arrangements must be made by the state in accordance with the obligations of the Member State. In this article, some of the arrangements shall not be suspended even in emergencies, such as the

right to life, prohibition of torture, the principle of non-retroactivity ... {13} Article 14 of the Covenant, which is a very important component of the arrangements made under Article 4 of the Convention is expected, and as a non-suspension arrangements forecast is not. 2 is exactly the critical conditions set out in Article 6 according to Article 14 be suspended, prescribe a fair trial. This is due to the interplay between human rights and humanitarian law, human rights and humanitarian law) protection of individual human rights and humanitarian law in internal conflicts Given the relationship between international humanitarian law and human rights in armed conflict is not new. was. This approach can be used as an approach to "dominance" is described. In contrast, the approach of the similarities between the two sets of rules and the ability to simultaneously apply them in armed conflicts and further emphasizes that to ensure the protection of the victims, the victims, prisoners or civilians took. It seems that this approach would provide for a consensus {16}.

We saw the emergence of the third approach, the study of the relationship between these two sets of rules for a particular purpose or in a particular field are. The UN Secretary General has emphasized in numerous reports that the main cause of internal armed conflict and widespread violations of human rights and the best way to prevent conflicts, human rights, especially the rights of minorities. The internal conflict in legal terms is that humanitarian law as "non-international armed conflicts (1)" is read. A key characteristic of the legal regulation of internal conflicts that are contrary to international conflicts, mainly between the warring parties in the relationship between government and its citizens. The enemy state obligations under international humanitarian law to the other side of the hostile government obligations towards its citizens, just as the human rights obligations imposed on the government for their nationals. It is thus possible in the documentation of human rights, humanitarian law, particularly in internal conflicts are readily detected. It can also impact on the international protection of human rights and humanitarian law, particularly in terms of internal unrest and tension below the threshold of common Article 3 are, see. Apart from unfettered rights referred to in Article 4 of the International Covenant on Civil and Political Rights, all other rights are legally suspended. Civil unrest, which may cause violent repressive regimes in addition to serious violations of human rights, the International Committee of the Red Cross [18] based on "the initiative" (2), even though the formal conditions of humanitarian law do not fit, can offer their services. But this is possible only with the consent of the government, which has no obligation to accept the offer. {19} . Declaration of Minimum Humanitarian Standards, in particular [20] or "Turku Declaration" (3) The Turku Declaration aims to develop a number of rules that wonderful time of civil unrest and the public, be respected as the minimum. The text is particularly of concern in some respects the principles of human rights and humanitarian law is influenced. {21} Finally, international humanitarian law, human rights protection in situations of armed conflict. This means that any extension of humanitarian law have the effect of reinforcing the protection of human rights is in such situations. are. Typically material assistance to victims of armed conflict by ICRC delegations can be provided as support for some form of human rights such as the right to health, nutrition or seen. Article 3 common to the Geneva Conventions in its second paragraph states that "a humanitarian pillar" neutral, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. "But most important of all, the warring parties have no obligation to accept the offer. This new type of conflict is not only a violation of basic human rights on a massive scale, but also in the conflicts, the militants involved in the dispute does not obey any command center. This is evident in international jurisprudence. out, while others believe that this document does not check, because it applies only to the specific and peace. Another American Court of Human Rights judgments in favor of a domestic crisis. This case is "la" is known (13 April 1998). In 1998, Argentina was in a very critical situation that most likely it was a coup. To thwart this short, a number of people are attacked party headquarters coup. After two days of fighting, they were able to suppress the rebels. arises here is whether this critical period, arrangements or arrangements for human rights and humanitarian law must be respected? Judge during the investigation into this case in the form of arrangements for human rights, law of armed conflict is handled. D) human rights, humanitarian law and refugee protection in conflict International system, certain methods have been developed to deal with victims in certain circumstances. International Committee of the Red Cross, responsible for implementing the four Geneva Conventions and the Additional Protocols to it. High Commissioner for Human Rights, responsible for dealing with victims of human rights violations and the United Nations High Commissioner for Refugees, responsible for tending to escape from prosecution is mandatory. However, given the interdependence and mobility in an environment that is increasingly differentiated set of victims of other series, is difficult. In addition, the applicability of human rights norms in some countries, has been questioned. As a result, the ambiguity of certain Has the growing complexity of the general problem of the protection of victims and pay attention to which will be added. At a time when the displacement is worrisome, emphasizing the relationship between human rights and humanitarian law on the one hand, and the competent Commissioner for Refugees to protect refugees and find solutions to their poor state on the other hand, is very important. What in the former Yugoslavia, Somalia and Iraq, the refugee victims of the twin phenomena of human rights violations and war. The war has also become an environment that UNHCR (UNHCR) for refugee protection and assistance should further provide. Respect for human rights, for the adoption and effective

protection of refugees' countries of asylum "(4) is very important, improvements in the human rights situation in the" country of origin "(5) is also necessary to solve the refugee problem through voluntary return home and protection of human rights in the "home countries" (6) the best way to prevent a condition that makes people into refugees. Has many years of humanitarian nature of UNHCR's mandate, was overshadowed by human rights office, to 1990, UNHCR did not participate in the Commission on Human Rights, which focuses on the rights of refugees and asylum seekers, after crossing the border was home. Roles and responsibilities of country of origin and prevention of refugee problems or conditions that precipitate their return, have been ignored. Today, UNHCR and humanitarian and human rights organization itself, but nature is quite distinct, UNHCR has stated: "International refugee law as well as international humanitarian law, human rights are in fact part of ". With the rising number of refugees, asylum countries have increasingly opened to its borders, are reluctant, in many cases, people who fled their homeland of human rights abuses and violence they face the risk of being rejected at the border or legal obstacles encountered in their efforts to asylum are. often pressure to create "safe areas" (7) there is no cost to political turmoil in the country, and human security officials and potential beneficiaries, should be understood . the perceived threat. Similar misery displaced refugees. However, they can not leave their country of mechanisms and tools for international protection of refugees, there is a benefit. It is widely known that the diversity and complexity of today's problems of refugees, does not end with the individual efforts to solve it. What is needed is a comprehensive approach to this problem. For UNHCR, this strategy means focusing on the support and help, not only in the country of resettlement, but the country is also to prevent the refugee problem, or at least they quench and carry. {25} in the humanitarian services of their action in the field of asylum to create a new procedure. refugees and asylum seekers, based on the review of best practices based on experience do UNHCR. It is also necessary to develop a new text than the 1951 Convention and 1967 Protocol and Convention, 1969 (OUA) on the determination of the mass (refugees) or Prima Facie developed and published. Governments and UNHCR should take care that the mass influx of displaced persons and refugees in emergency situations, to support the special needs of women and children, refugees and other vulnerable groups, the appropriate response is given. friendly development of the special protection of refugees, is not much in terms of international humanitarian law, victims of international conflict, whether displaced or not, should be against the deleterious effects of civil wars and international be protected and benefit from humanitarian aid. Because of the huge wave of armed conflict and human displacement brings people seeking asylum applicants are in need of international protection, the rights of refugees is linked with international humanitarian law. [26] This includes the development of concepts and applying the principles of human rights and refugee rights are human rights. After four strategies show that this transformation include: 1) The first dimension, ensuring international support . UNHCR, in 1994, a memo entitled "international support" to the same address, and notes that "a large number of people who are in need of international protection in principle outside the scope of international refugee protection are the main tools. " {28} UNHCR, invites all governments to adopt measures that all those who are in need of international protection, to be protected. {29} This new approach, including temporary protection is extended to include the concept. In this regard, it has been argued that the development of the concept of temporary protection requires an appropriate legal basis which could supplement the Convention or the 1951 gene is part of the Convention. [30] UNHCR in Western Europe, the Yugoslav refugee problem, apply the concept of temporary protection. This concept has been widely accepted by the government. Section Seven (VII) general framework of the Dayton Agreement in 1995, it is noted that the protection of refugees and UNHCR has played a vital role in achieving peace, an important role in the protection of victims of armed conflict and ensure security {31}. The basic principles of temporary protection include: acceptance, respect the principle of non-return of humanitarian standards of behavior and eventually return to the country of origin when conditions permit it offers. In this regard, the main task of UNHCR temporary protection of victims of armed conflict in the context of humanitarian operations, regardless of whether the victims in need of protection as refugees deemed to be or not [32], thus the temporary support for a wider group of providing protection. 2) The second dimension is to strengthen the protection of the country To support IDPs and refugees who are in conflict situations. In terms of certain legal principles of humanitarian law and human rights of internally displaced persons are applicable. Refugees who are victims of an armed conflict or caught by the enemy or in the host country are affected by the war, supported by international humanitarian law and the Fourth Geneva Conventions additional Protocol I, of refugees, especially refugees live in the occupied territories, the special protection. fourth convention, the principle of "Non-return ", which is built on the rights of refugees, notes. people who have been displaced in an armed conflict in their country, by the rules of international humanitarian law by the civilian population to provide broad support, supporting them. The purpose of these rules, especially the protection of the civilian population against the effects of war, such as attacking them or scare them, the use of starvation as a method of warfare, or destroy objects indispensable to their survival is prohibited. Displaced in an internal conflict, Article 3 common to the four Geneva Conventions and Protocol II by supporting them. IHL shift mandatory, except in cases in which the displacement for the security of the civilian population or imperative military reasons eclipse is prohibited. In addition, public support humanitarian law, which guarantees for the



civilian population, to the effect that the displacement limit. {33} UNHCR also compared with refugees and internally displaced within the country, that is, the homeless man who, if he gets out of his country's international borders, the status of refugees placed. {34} The first General Assembly resolution on the subject to the Sudan in 1972, is on. Since then, the world was witness to many armed conflicts, resulting in the displacement of large numbers of people inside and outside the country has been disputed. In the first two weeks of the conflict in Kosovo over 500 thousand people were displaced within Yugoslavia. In recent years the number of people who were displaced due to armed conflict in the country is estimated to be between 20 and 25 million. Since the causes and consequences of armed conflict, the issue of refugees and displaced persons related to the subject matter, as a result of the UNHCR Statute and procedures within their operation is related to the issue of internally displaced persons. In this context, UNHCR focuses on the following activities: ▪ advice and representation internally displaced persons; ▪ mobilize their support; ▪ strengthen the organization's ability to respond to the problems of refugees; ▪ Directional international support and presence alongside refugees in some situations [35]. 3) The third dimension, seeking solutions "Voluntary return to their homeland" (8) Whenever possible, the solution is optimal. The norms of human rights, the right to return home in the Universal Declaration of Human Rights (Article 13, paragraph 2) has been suggested. The right of the International Covenant on Civil and Political Rights also been developed. Implementation of the human right to return home and seek solutions for the voluntary repatriation of refugees in the world, one of the main challenges that UNHCR and the international community in general, they have faced. Refugees forced to flee from their homes and homeland to the causes of violence and human rights violations. If they return voluntarily and safely to their homes, in a state in which they are run, significant changes occur. Peace and respect for human rights should be created for them. Ensure that a comprehensive approach requires the political, humanitarian and human rights will be included. The solution of the refugee problem and the humanitarian and human rights is a political challenge. In countries of origin, the UNHCR Executive as an important criterion for the return of confidence to act. them. On the other hand, human rights mission to succeed, it is vital that a clear boundary between the two sets of functions to be created, the first function, which is related to measures to restore confidence and create favorable conditions for reconciliation and return and pays the High Commissioner for Refugees play its role in with its "Human Rights Watch" (9), play. The second function, to investigate and prosecute those who violate human rights and the High Commissioner can not have any role in it. Because humanitarian action should be widely Non-judgmental (10) remain. While the responsibility for determining human rights law requires {36}, such as the creation of an international court to prosecute those responsible for serious violations of human rights and humanitarian law in the former Yugoslavia and Rwanda. 4) The fourth dimension, given the roots and preventive measures The General Assembly passed a resolution on 16 December 1981 the government decided to take a group of experts to undertake a review of all aspects of the refugee problem of wave form. The groups were asked a set of recommendations for international cooperation in the field provided. {37} as follows: ▪ invited countries to respect the principles of the UN Charter, especially the non-use of force and non-interference in the internal affairs of others. ▪ Invitation to the peaceful settlement of disputes between Almllybrasas Charter and the Declaration on Principles of International Law concerning friendly relations and cooperation between the countries on the UN Charter. ▪ countries with their obligations under the Charter and international law on human rights from any action which would lead to a wave of refugees, the refrain. ▪ promote the civil, political, economic, social and cultural rights and refrain from violating the rights or discrimination against individuals because of nationality, race, ethnicity, religion and language in a way that moves the population, directly or indirectly, be. ▪ countries should cooperate with each other to prevent the population of refugees and international cooperation in this area, especially at sub-regional level and increase. ▪ In the event of a crisis and the influx of refugees under international law, particularly the voluntary and safe return to their homeland respect. {38} mass influx of refugees and intensify its roots. {39} ▪ The need to raise public awareness of the need for a more comprehensive response from the roots to the solutions and the rights of refugees, asylum countries of origin and recipient, third countries and international organizations include, strengthened. Prevention of refugee problems and the solution requires a multi-pronged strategies and comprehensive that the rights of refugees, human rights and humanitarian law play an extensive role.

## Conclusion

Humanitarian law and human rights law often have the same goals and aspirations. Their primary purpose is to support the development of human rights in all circumstances and in all kinds of conflict and struggle. viable, useful. Now, the fact is accepted that human rights and humanitarian law is a major cause of the refugee problem. If human rights and humanitarian situation in the country improves, it may be prevented or reduced their future refugee flows. The same goal is to apply the law has resulted in the convergence of content and commentary.

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