REVISTA DO CEJUR/TJSC
Prestação Jurisdicional

DOI: https://doi.org/10.37497/revistacejur.v14i00.499

ARTIGO ESTRANGEIRO

INTERNATIONAL HUMANITARIAN LAW: HISTORY, CHALLENGES AND PROSPECTS OF EVOLUTION ALONG WITH ITS RELATION WITH INTERNATIONAL SECURITY[1]

Direito Internacional Humanitário: História, Desafios e Perspectivas de Evolução em sua Relação com a Segurança Internacional

Paulo Cardinal
Part-time Professor at the Master of Law in European Union Law, International Law and Comparative Law, Faculty of Law, University of Macau, Visiting Academic, Faculty of Business and Law, University of Saint Joseph (Macau, China).
Email: paulocardinal@um.edu.mo.

ABSTRACT | **Purpose:** This article examines the historical development of International Humanitarian Law (IHL) and the major contemporary challenges affecting its effectiveness and its relationship with international security. The study explores the evolution of humanitarian norms from their historical foundations to the current international legal framework, highlighting the tensions between humanitarian protection and contemporary geopolitical dynamics. **Methodology:** The research adopts a qualitative approach based on doctrinal legal analysis and historical examination of International Humanitarian Law. The study reviews international legal instruments, academic literature, institutional reports, and contemporary debates regarding the role of IHL in the international legal order. **Findings:** The findings indicate that although IHL has become a fundamental branch of international law, its effectiveness faces significant challenges in the contemporary global context. These include the emergence of new military technologies such as autonomous weapon systems and artificial intelligence, persistent violations of humanitarian norms in recent armed conflicts, and geopolitical tensions that hinder accountability for international crimes. **Originality:** The study contributes to scholarly debates on the future of International Humanitarian Law by discussing possible pathways for strengthening its institutional effectiveness, including the role of international criminal law, the need to reinforce a culture of compliance with humanitarian norms, and the adaptation of IHL to new forms of warfare and technological developments.

Keywords | International Humanitarian Law, Individual, War, International Security, International responsibility

Qualis A3 CAPES 2021-2024

Submetido em: 24 de janeiro 2026
Aceito em: 11 de março. 2026
e-ISSN: 2319-0884
GUEST PAPER (**Artigo convidado**)

How to cite this article: CARDINAL, P. Direito Internacional Humanitário: História, desafios e perspectivas de evolução em sua relação com a segurança internacional. *Revista do CEJUR/TJSC: Prestação Jurisdicional*, Florianópolis (SC), v. 14, n. 00, p. e0499, 2026. DOI: 10.37497/revistacejur.v14i00.499. Disponível em: https://revistadocejur.tjsc.jus.br/cejur/article/view/499.

1 Some parts of this paper were used, and adapted, in another paper that was initialized after and mostly prepared at the same time: *International Humanitarian Law - Some Historical Notes and Contemporary Challenges and Provocations: In Particular Perspectives of Evolution and the EU Role and Contributions*, EUSAAP Conference 2025 Macau - The EU, its Policies and Relations in Times of Transitions, to be published.

PODER JUDICIÁRIO de Santa Catarina

RESUMO | Objetivo: O artigo analisa a evolução histórica do Direito Internacional Humanitário (DIH), bem como os principais desafios contemporâneos que afetam sua efetividade e sua relação com a segurança internacional. O estudo examina o desenvolvimento das normas humanitárias desde suas origens históricas até o atual sistema jurídico internacional, discutindo as tensões entre a proteção humanitária e as dinâmicas geopolíticas contemporâneas. **Metodologia:** A pesquisa adota abordagem qualitativa baseada em análise jurídico-doutrinária e histórico-analítica do Direito Internacional Humanitário. Foram examinadas fontes normativas internacionais, literatura especializada, documentos institucionais e debates contemporâneos sobre o papel do DIH no sistema internacional. **Resultados:** Os resultados indicam que, embora o DIH tenha se consolidado como um corpo normativo essencial do direito internacional, sua efetividade enfrenta desafios significativos no contexto contemporâneo. Entre eles destacam-se o desenvolvimento de novas tecnologias militares, como sistemas de armas autônomas e inteligência artificial, as violações reiteradas das normas humanitárias em conflitos armados recentes e as tensões políticas no sistema internacional que dificultam a responsabilização por crimes internacionais. **Contribuição:** O estudo contribui para o debate acadêmico sobre o futuro do Direito Internacional Humanitário ao refletir sobre os caminhos possíveis para seu fortalecimento institucional, incluindo o papel do direito penal internacional, a necessidade de reforçar a cultura de cumprimento das normas humanitárias e a adaptação do DIH às novas formas de conflito e às transformações tecnológicas.

Palavras-chave | Direito Internacional Humanitário; Conflitos armados; Segurança internacional; Direito internacional; Crimes internacionais

I TO START...

It is indeed a difficult time to write about International Humanitarian Law. These times and the threats we are witnessing almost daily are bringing darkness, uncertainties, demotions, metamorphosis, and are undermining if not even destroying beliefs in Law. One, as a citizen of the Worls is not immune to this spectre. Even less so being an international law teacher[2].

The topic of this chapter can entail, rightly, many issues. Many of them rather interesting and academically challenging but all were submerged by existential, or near-existential, threats to International Humanitarian Law in particular, international law at large, and the international community *a se*.

Besides the known difficulties and challenges, many issues would justify, *per se*, autonomous papers, such as, for instance, AI and IHL, or the need to *vitaminize* International Criminal Law as a tool to protect and enforce IHL (part of it, as known, and not its entirety). Hence, this paper will only list some of the most important challenges, and provide some general comments and suggestions, without going in too much detail, impossible to attain in this paper, as explained.

The writing of this paper was a painful exercise and, one believes, it would also have been for anyone who still believes in Law, in Justice, and, on the other hand, refuses the return of humanity to the *Might is Right* age. Or to the amoral pure transactional approach to human rights, to IHL, to international law at large.

2 Empathy fails or is absent, something is indeed wrong. A teacher of International Law, namely IHL, International Human Rights, International Criminal Law, needs to have, now more than ever in this XXI century, a certain empathy towards International Law as (perceived) justice. Without having and as (perceived) justice, as CARLO FOCARELLI rightly points, (2024), p 155. Without having and maintaining, this above-mentioned empathy to perceived justice that International Law carries and can, and should bring, forward, one better abandons teaching, researching, writing about international law.

One knows that war is ancient, is a constant in humankind history, war is a tool, and, *a propos*, but in his *attitude context* of an ameliorative general move of International Law, H.S. MAINE, in 1887, wrote, «*War appears to be as old as mankind, but peace is a modern invention.*», (MAINE, 1888, p. 8)[3]. Wars are a constant and without wars there would be (essentially) no place to IHL existence and this means, precisely, that regardless of the permanence of wars or because of it, there are rules in place to limit conducts of Man in war. So, back to basics, back to *normalcy* of having wars we seem to be heading. Nevertheless, or even more so, the respect for the laws of war cannot be silenced, cannot be put aside, cannot be replaced by some sort of reinvented transactional branch of law.

Besides, one should not forget that international law, however, and increasingly and exponentially (and fortunately), became, for several decades already, mostly an international law of cooperation – in Peace[4] - namely by virtue of increasing institutional cooperation based on an exponentially increased and diversified international organizations, and *reinforced* powers in several cases, and expanding to economic, health, commerce, environment, outer space, sea, etc., etc.

II SOME INTRODUCTORY AND CONTEXTUAL REMARKS

International Humanitarian Law (henceforth, IHL), otherwise known by its less palatable label as the *Law of war*, or the *Law of armed Conflict* (LOAC), and, traditionally referred to as *Jus in bello*, is summarily the law that regulates the conduct of war[5], better said, in a sort of bi-perspective, it is the branch of law that seeks to limit the effects of armed conflict by protecting persons who are not participating in hostilities, on one side, and, on the other, by restricting and regulating the means and methods of warfare that warring parties can resort to[6]; hence, it has a co-natural relation to international (in)security[7] since it, basically, regulates conducts and weaponry in times of wars.

3 Further stating, in putting the curtain down on his book, «*War is too huge and too ancient an evil for there to be much probability that it will submit to any one or any isolated panacea. I would even say that there is a strong presumption against any system of treatment which promises to put a prompt and complete end to it. But, like those terrible conflagrations to which it has often been compared, it may perhaps be extinguished by local isolation.*».

4 It is important, and fair, to mention in here an extremely influential work of HANS KELSEN (1944), a neo-Kantian proposal, rooted in the idea that international peace can be achieved through the establishment of an international court with binding jurisdiction over states while also touching on the idea of a World federal state, moral unity of humanity and a normativist conception of law that should guide the development of international law.

5 Or, in a more elaborated or scientific definition: «*IHL is a set of rules that seek to limit the humanitarian consequences of armed conflicts. It is sometimes also referred to as the law of armed conflict or the law of war (jus in bello). The primary purpose of IHL is to restrict the means and methods of warfare that parties to a conflict may employ and to ensure the protection and humane treatment of persons who are not, or no longer, taking a direct part in the hostilities. In short, IHL comprises those rules of international law which establish minimum standards of humanity that must be respected in any situation of armed conflict.*», NILS MELZER/ETIENNE KUSTER, (2022, p 17).

6 See, «*Actually, the idea of 'humanizing' war is a confusing one. It is more appropriate to speak of 'limiting the evils of war', and of 'attenuating the effects of hostilities'. There is yet another paradox: Can the law of armed conflict still be justified in our time when we see that it has in no way lessened or outlawed war? It has been said that humanitarian action would make war tolerable by smoothing its effects! This remark, which is certainly becoming increasingly uncommon, arises from a confusion as to the true objective of the law of armed conflicts. The law of armed conflicts (jus in bello) does not aim at eliminating war, but at mitigating its effects, as the law against war (jus contra bellum) aims at preventing war.*», JACQUES MEURANT, (1987, p 237).

7 See, for example, and in a clear and affirmative manner, MIRJANA SPOLJARIC, president of the International Committee of the Red Cross (ICRC), (2025).

It is not thus a branch of Law for normalcy, for Peace, for *every season of the year*, for *everyday of the calendar*.[8] It is just for *Winter times*, otherwise it stays, fortunately, in *storage*. IHL applies only to armed conflict, usually of an international nature (but not necessarily[9]); it does not cover internal tensions, for instance in demonstrations, or disturbances such as isolated acts of violence namely of «normal» criminal nature. By *the end of the day,* it is a branch of law for war and thus, by its won nature and particular context of application, can pose perplexities, paradoxes, questions.

One could say, then, that this body of International Law *enters the scene, that is finds its purported object and purposes,* when situations of security, rather, insecurity, arise and translate or escalate into armed conflicts, usually of an international nature or, in certain circumstances, of a non-international nature.

One more important precision should be made in these introductory and contextual remarks: an anticipatory clarification is that being a law of or for wars, IHL, or *Jus in Bello*, is different from the *Jus ad bellum*. The *Jus ad bellum* basically is the set of rules that refers to the conditions under which States may resort to war or to the use of armed force in general. The general prohibition against the use of force amongst States is the prevailing principle as seen, and, along with the few exceptions to it - self-defence and UN authorization for the use of force - set out in the United Nations Charter (mostly but not only Chapter VII), constitute the core elements of this *jus ad bellum* branch of international law.

Note that, for IHL, is irrelevant if a certain war or armed conflict is legal or illegal in the face of the UN Charter, as it is also irrelevant if a given State was merely using its self-defence after being attacked. IHL applies to all identically to legal or illegal wars, to perpetrators – *e.g.* attackers - and victims – *e.g.* invaded States - of the armed conflict.

As was recently well said, «*the international law regulating recourse to armed force (jus ad bellum) is necessarily fragmented from the body of law regulating the conduct of hostilities (laws of war or jus in bello). (...) Ultimately, if international humanitarian law (IHL) is not uniformly applied to all sides of the conflict and its enforcement is dependent on which party is considered the aggressor, this body of law is effectively of no use, and we are drawn back to very dark times that this author would like to think have long been overcome. If these two bodies of law were not fragmented by the very conduct of states*

8 With some exceptions, that is, some IHL rules are applicable in times of Peace. For example, there are a few obligations that require implementation in peacetime, such as adopting legislation, teaching and training on IHL, mostly Geneva bloc, and prohibitions on several kind of weapons regarding production, distribution, and so on, such as nuclear, biological, weapons.

9 A non-international armed conflict can be succinctly described as a situation of protracted armed violence between governmental authorities and organized armed groups within a state or between such groups within a state. See, Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1977, where one can read, «*The only provision applicable to non-international armed conflicts before the adoption of the present Protocol was Article 3 common to all four Geneva Conventions of 1949. This Article proved to be inadequate in view of the fact that about 80% of the victims of armed conflicts since 1945 have been victims of non-international conflicts and that non-international conflicts are often fought with more cruelty than international conflicts.*»; one could add also some customary international humanitarian law norms and, at present times, several international conventional sources such as the Blinding Weapons Prot; Mines Prot as of 1996; Prot2CultPropConv; Article 1, paras. 2–6, Inhumane Weapons Conv as of 2001), by way of revision. Other treaties were enacted with a broad scope right from their first entry into force (Land Mines Conv; Cluster Conv; Biological Weapons Conv; Chemical Weapons Conv. And, importantly, article 8, sub-para. 2 e, of the Rome Statute on the International Criminal Court confirms the existence of rules limiting methods and means of combat in non-international armed conflicts. But, still, at least in a more traditional approach (not necessarily the more adequate), this can be described as the great rift in IHL: international armed conflict *versus* non international armed conflict.

or by reference to the respective treaties, we would be forced to spell it out loud in order for both fields of regulation to be meaningful and mutually reinforcing.» (ILIAS BANTEKAS, 2022, p. 54)[10].

International humanitarian law thus, applies with equal force and substance to all the parties in an armed conflict/war, and that is so irrespective of which party of the conflict was responsible for starting it. Russia, as known, invaded Ukraine and, uncontroversially, this armed conflict initiated by the permanent member of the UN Security Council is bluntly illegal because in breach of the UN Charter. However, IHL rules will apply equally to both perpetrator and violator of the UN Charter – Russia – and the victim – Ukraine. This same structural starting point platform applies to the other conflicts ravaging our Planet at present, such as in the Middle East.

This branch of international law is a complex collage – but dully harmonized and knitted together by its common ultimate goals and permeating values - of several treaties and customary rules and, mostly significant, of certain blocs that contain specific characteristics, aims and technics: the Geneva bloc[11], the Hague bloc[12], the New York bloc[13], plus other sources not easily

10 See further, at p 55, «*While Articles 2(4), 51 and 42 of the UN Charter are silent concerning their relationship to international humanitarian law (IHL), this was also the case with the predecessor to the UN Charter, namely the League of Nations Charter. In equal measure, no codification of IHL has expressly delineated its affinity to the pertinent rules regulating resource to armed force. All this is true from the perspective of treaty law. However, both IHL and the jus ad bellum are also regulated through customary law. I will not attempt the very delicate and complex enterprise by which to ascertain customary rules in either field; so, we will confine ourselves to established practice. The first contemporary reference point is undoubtedly the Nuremberg proceedings, as well as subsequent trials during that period. Public opinion and political pressure could have easily 'persuaded' the Tribunal to hold that every member of the German forces was criminally liable for participating in the war effort. While it is true that several allied forces were vociferous in their demands to summarily execute all high-ranking Nazi officials, there was never any claim that all military personnel should be viewed as war criminals by their mere incorporation in the German armed forces. This line of thinking subsequently permeated the Statute of the International Criminal Court (ICC), the ad hoc tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR), as well as all other international criminal tribunals established by the UN Security Council or by other means.*».

11 The four Geneva Conventions, 1949, Geneva Convention I for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (GC I); – Geneva Convention II for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (GC II); Geneva Convention III Concerning the Treatment of Prisoners of War (GC III); – Geneva Convention IV Concerning the Protection of Civilian Persons in Time of War (GC IV). The three Protocols Additional to the Geneva Conventions They strengthen protection for victims of international (Additional Protocol I) and non-international (Additional Protocol II) armed conflicts and place limits on the way wars are fought. Additional Protocol II was the first international treaty that dealt exclusively with situations of non-international armed conflict. In 2005, a third Protocol additional to the four 1949 Geneva Conventions was adopted; this created another emblem, the red crystal, which has the same international status as the red cross and the red crescent. Note that the red cross is no more than the Swiss flag inverted in colours and, thus, has no connection at all to religious imagery, namely Christian. Plus, international customary rules consisting of a very broad, advanced, and *catalogued* set of rules. Of particular relevance, common articles 3, 1 and 2 of the Geneva conventions merit a reference.

12 Hague Convention IV Concerning the Laws and Customs of War on Land (HC IV), and Annex to the Convention: Regulations Concerning the Laws and Customs of War on Land; Hague Convention V Concerning the Rights and Duties of Neutral Powers and Persons in Case of War on Land (HC V); Hague Convention VI Concerning the Status of Enemy Merchant Ships at the Outbreak of Hostilities (HC VI); Hague Convention VII Concerning the Conversion of Merchant Ships into Warships (HC VII); Hague Convention VIII Concerning the Laying of Automatic Submarine Contact Mines (HC VIII); Hague Convention IX Concerning Bombardment by Naval Forces in Times of War (HC IX); Hague Convention XI Concerning Certain Restrictions with Regard to the Exercise of the Right of Capture in Naval War (HC XI); Hague Convention XIII Concerning the Rights and Duties of Neutral Powers in Naval War (HC XIII). Note that the 1907 Hague Conventions are binding not only upon the contracting parties, but are widely recognized as customary law. Including by the ICJ.

13 Namely: Convention of 10 April 1972 on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction—Biological Weapons Convention (BWC); Convention of 18 May 1977 on the Prohibition of Military or any Other Hostile Use of Environmental Modification Techniques—ENMOD Convention (ENMOD); Convention of 10 October 1980 on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (Inhumane WeaponsConv, amended on 20 December 2001) with Protocols adopted on 10 October 1980, 13 October 1995, 3 May 1996, and 28 November 2003; International Convention of 4 December 1989 Against the Recruitment, Use, Financing and Training of Mercenaries (MercenaryConv); Convention of 13 January 1993 on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Chemical WeaponsConv); Ottawa Convention of 3

fitting the precedent blocs[14] and, in a very special relationship, International Criminal Law (and International Criminal Procedure Law), a branch that, in many areas (not all), operates in tandem with IHL, as is well-known. Using an easy plastic image, one can say that IHL being a tiger, and with some claws, it is, nevertheless, basically toothless and then it comes International Criminal Law to provide teeth to our IHL – better said to part of it – namely with provisions regarding the War Crimes, but also some crimes against humanity, for example.

III A NUTSHELL HISTORY (AND PRE-HISTORY)

Turning now to an historical perspective, International Humanitarian Law although relatively recent – namely but not only in using this *cleaner* nomenclature - since it is deeply anchored in the *Solferino effect*[15].

However, history provides much earlier examples of humanitarian condiments, limitations, safeguards in the *jus in bello*, including in times where wars were barbaric, where *might was right*, where no distinctions between combatants and non-combatants were made, where plunder and pillage were common, and even necessary to the war effort, where killing of prisoners and of civilian population were usual, where war simply and brutally silenced all laws.

As said by MARCO SASSÒLI, «*The idea that wars are subject to rules and limitations has existed for millennia, as it is inherent in the very concept of war. Throughout history, all civilizations and religions have established some rules that today would be qualified as IHL. Even before modern IHL was codified in multilateral treaties, belligerents frequently concluded bilateral agreements or issued unilateral instructions in this field.*» (MARCO SASSÒLI , 2024, p. 5).

That is, even in those dark times, one can detect, here and there, manifestations of what today we call IHL, as to be seen further ahead. Obviously to say that, when in war, a thin blue line manifests itself between rules limiting the conducts in war and the will and need to become victorious in war. A tension is, needless to emphasize, present between behaving humanely and guaranteeing security.

In an historical perspective, although apparently relatively recent and anchored in the Solferino effect, and the subsequent establishment of the Red Cross movement at large, most importantly the present-time ICRC, history provides much earlier examples of humanitarian condiments in the *jus*

December 1997 on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-personnel Mines and on their Destruction (LandMinesConv); Dublin Convention of 30 May 2008 on Cluster Munitions; Arms Trade Treaty of 2 April 2013; Treaty on the Prohibition of Nuclear Weapons of 7 July 2017.

14 Such as St Petersburg Declaration of 11 December 1868 Renouncing the Use, in Times of War, of Explosive Projectiles under 400 grammes Weight (PetersburgDecl 1868); Hague Declaration of 29 July 1899 Concerning Expanding Bullets, so-called 'dum-dum bullets' (Dum-Dum Bullets HagueDecl. 1899), Hague Convention of 14 May 1954 for the Protection of Cultural Property in the Event of Armed Conflict—Cultural Property Convention (CultPropConv) with Protocols adopted on 14 May 1954 and 26 May 1999.

15 After witnessing the carnage and terrible consequences for so many human beings after the battle, Henry Dunant wrote *A Memory of Solferino*, «*This is the book that prompted the creation of what is now a worldwide movement with millions of members and made the name of Henry Dunant known everywhere. The account has moved many people and still does today. "One finishes this book cursing war", wrote the Goncourt brothers in the nineteenth century. Since it was first published in 1862, the book has been translated into so many languages and reprinted so many times that it is difficult to know how many versions exist throughout the world*», as it is written at the ICRC official page, at https://shop.icrc.org/a-memory-of-solferino-print-fr-1.html . The book is available for free download in several languages at the ICRC site.

in bello, on a variety of geographies and on diverse cultural-religious-socio contexts[16]. IHL walks along with human dignity throughout history and conflicts even if with accentuated differences and *grades*. Throughout history, the development of international humanitarian law has been influenced by religious concepts, cultural contexts, societal *organizatory* models (chivalry, for instance) and, obviously, philosophical ideas – as to be seen. In truth, one cannot be shy to affirm that some rules which imposed restrictions on the conduct of war, the means of warfare, and their application, can be traced back to ancient times in a multitude of geo-contexts.

The Sumerians treated war as something subjected to specific rules which, inter alia, guaranteed immunity to enemy negotiators.

The law of the Hittites provided for a declaration of war and for peace to be concluded by treaty, as well as for respect for the inhabitants of an enemy city which has capitulated. The war between Egypt and the Hittites in 1269 BC, for instance, was terminated by a peace treaty. This is one of the first, or even the first, confirmed and recorded international treaty in history.

The Indian epic Mahabharata (ca. 400 BC) and the Laws of Manu (circa 200 BC-200 AD) already contained provisions which prohibited the killing of a surrendering adversary who was no longer capable of fighting; forbade the use of certain means of combat, such as poisoned or burning arrows; and provided for the protection of enemy property and prisoners of war.

As stated, «*According to the Mahābhārata, one must not engage in combat against the following people: brahmins; children; the aged; the disabled; the grieving; the mentally ill; the weary; those drinking or eating; those support workers in army camps; those walking along a road; those who are sleeping; those who surrender; or women.*»[17].

The Greeks, in the wars between the Greek city-states, considered each other as having equal rights and in the war led by Alexander the Great against the Persians, respected the life and personal dignity of war victims as a prime principle. They spared the temples, embassies, priests, and envoys of the opposite side and exchanged prisoners of war. For example, the poisoning of wells was proscribed in warfare. The Romans also accorded the right to life to their prisoners of war. However, the Greeks and Romans both distinguished between those peoples whom they regarded as their cultural equals and those whom they considered to be barbarians. Alexander massacred many surrendered opponents s fighting for Persia, namely Greek mercenaries, as is known.

Islam also acknowledged the essential requirements of humanity. In his orders to his commanders, the first caliph, Abu Bakr (about 632), stipulated for instance the following: '*The blood of women, children and old people shall not stain your victory. Do not destroy a palm tree, nor burn houses and cornfields with fire, and do not cut any fruitful tree. You must not slay any flock or herds, save for your subsistence.*' In Islam, it is said, with some degree of exaggeration, «*In the days when*

16 We are now following, basically, JEAN PICTET, (1985), DIETER FLECK, (2021), RUDOLF MÜLLER, (1897), AMANDA ALEXANDER, (2015), JACQUES MEURANT, (1987).

17 RAJ BALKARAN/A. WALTER DORN, (2022, pp 1779 – 1780). See also, idem, «*While it is undeniable that the Mahābhārata advances parameters for combat ethics that parallel modern IHL, it is vital to understand Indic standards on their own terms. Hindu rules of armed conflict emerged from the religious and statecraft works of ancient India, and are therefore grounded in a cultural ethos very different from that which spawned classical Western just war theory (jus ad bellum and jus in bello). Impartially studying the values and ideologies of ancient India not only affords a greater appreciation for the combat ethics valorized in India (to this day), but may well empower Indian traditions to enrich the modern global discourse on IHL.*», p 1790.

Islam came into focus the world was completely unaware of the concept of humane and decent rules of war», pointing to Grotius as the first one that showed the West the jus in bello. «*Islam has first drawn a clear line of distinction between the combatants and the noncombatants of the enemy country. As far as the non-combatant population is concerned such as women, children, the old and the infirm, etc., the instructions of the Prophet are as follows: "Do not kill any old person, any child or any woman" (Abu Dawud). "Do not kill the monks in monasteries" or "Do not kill the people who are sitting in places of worship" (Musnad of Ibn Hanbal).*».[18]

One can bring in here also the following: «*Thus, one discovers a legal system neither inherently warlike nor bloodthirsty, but rather one which constitutes one of the earliest attempts to institutionalize humanitarian limitations on the conduct of military conflict. The Islamic system, though developed some thirteen centuries before the codification of modem international humanitarian law, foreshadows its development, and contains the kernel of its most important protections*»[19].

While in many cases Islamic warfare was no less cruel than warfare by Christians, under the reign of leaders like Sultan Saladin in the twelfth century, the laws of war were observed in an exemplary manner. Saladin ordered the wounded of both sides to be treated outside Jerusalem and allowed the members of the Order of St. John to discharge their hospital duties.

In the Middle Ages feud and war were governed by strict principles. The principle of protecting women, children and the aged from hostilities was espoused by St Augustine. The enforcement of respect for holy places (Truce of God) created a right of refuge, or asylum, in churches, the observance of which was carefully monitored by the Church. Knights fought according to certain (unwritten) rules which were enforced by tribunals of knights. These particular rules applied only to knights, not to the ordinary people. These were, then, unprotected and at the mercy of the victor.

A few years before the first Geneva Convention, from 1864, we can read in a very influential International Law book the following: «*For the general rule, derived from the natural law, is still the same, that no use of force against an enemy is lawful, unless it is necessary to accomplish the purposes of war. The custom of civilized nations, founded upon this principle, has therefore exempted the persons of the sovereign and his family, the members of the civil government, women and children, cultivators of the earth, artisans, laborers, merchants, men of science and letters, and, generally, all other public or private individuals engaged in the ordinary civil pursuits of life, from the direct effect of military operations, unless actually taken in arms, or guilty of some misconduct in violation of the usages of war, by which they forfeit their immunity*»[20].

However, one needs to keep focus and understand scale, and when one goes to historians, we obtain a probably more real picture. That is to say, simply, that regardless of some rules – juridical, moral, religious or whatsoever – the behaviour in so many wars, in so many times, in so many places were appalling and grossly violating, in many cases, any shred of rule, any shadow of moral

18 SYED ABUL A'LA MAUDUDI, (1976, pp 23 – 24).

19 KARIMA BENNOUNE, (1994, p 635).

20 HENRY WHEATON, (1855, p 419). One can also read «*The whole international code is founded upon reciprocity. The rules it prescribes are observed by one nation, in confidence that they will be so by others. Where, then, the established usages of war are violated by an enemy, and there are no other means of restraining his excesses, retaliation may justly be resorted to by the suffering nation, in order to compel the enemy to return to the observance of the law which he has violated*», p 421.

or religious command that was supposedly needed to be followed. In a sense, from the law in books we now turn to the law in action.

For example, JEAN-JACQUES ROUSSEAU wrote about, and explained and essentially posited that wars are conflicts between States and not between individual men, with all the consequences that this entails:

> «*Men are not naturally enemies, if only for the reason that, living in their primitive independence, they have no mutual relations sufficiently durable to constitute a state of peace or a state of war. It is the relation of things and not of men that constitutes war; (...) Private combats, duels, and encounters are acts that do not constitute a state of war; (...)* ***War, then, is not a relation between man and man, but a relation between State and State, in which individuals are enemies only by accident, not as men, nor even as citizens, but as soldiers; not as members of the fatherland, but as its defenders. In short, each State can have as enemies only other States and not individual men, inasmuch as it is impossible to claim any true relation between things of different kinds. This principle also conforms to the established maxims of all ages and to the accepted practices of all civilized nations.*** *(...) Even in open war, a just prince, while he rightly takes possession of all that belongs to the State in an enemy's country, respects the person and property of individuals; he respects the rights on which his own are based. The aim of war being the destruction of the hostile State, we have a right to slay its defenders so long as they have arms in their hands; but as soon as they lay them down and surrender, ceasing to be enemies or instruments of the enemy, they become again simply men, and no one has any further right over their lives.* ***Sometimes it is possible to destroy the State without killing a single one of its members; but war confers no right except what is necessary to its end. These are not the principles of Grotius; they are not based on the authority of poets, but are derived from the nature of things, and are founded on reason***.». (emphasis added) (ROUSSEAU, 1762, pp. 160-161).

On the *reverse*, when CICERO (52 BC) apparently proclaimed «*Inter arma enim silent leges*», meaning popularly «*In times of war, the law falls silent*», one immediately detects here a blank cheque to do whatsoever, namely to prisoners of war, civilians, women, children and so on. This would mean an absolute vacuum or non-existence of IHL. Note that it is not absolutely or uncontroversially assumed that CICERO agreed with this *posit* or, if, he was using it to criticize it. It is also of note to recall that customary rules of warfare are part of the very first rules of international law in general and were known in ancient Rome.

The development from the first rules of customary law to the first written humanitarian law principles for the conduct of war, however, encountered several setbacks and faced structural crisis: for example, in modern history, the heinous crimes and disregard of humanity by the Nazi regime and its *Untermensch* ideology, or the abhorrent crimes of imperial Japan such as the Nanjing massacre or the infamous Bataan Death March.

Or, still within WWII, turning tables from the *Bad ones* to the *Good ones*, the bombing and obliterating of entire German cities and its civilian population, without any military target at stake, such as with the Hamburg bombings.

Anyway, it is known that some rules which imposed restrictions on the conduct of war, the means of warfare, and their application can be traced back to ancient times. It is true that, when one reads Herodotus, Thucydides, Procopius[21] and others, one cannot be but in horror with depictions of pure cruelty, namely towards those that lost.

This historical nutshell is closed and is important and informative.

However, it is not in itself absolute, and a provider of the whole picture, and one needs to keep focus and understand scale, and when one goes to historians, we obtain a probably more real picture. Let's read Herodotus, 5th century BC, and his *Histories*, addressing the Greco-Persian Wars between the Persian Empire and the Greek city-states. We will read all the horrors towards surrendering soldiers, civilians, etc. Or, if one prefers Thucydides, *History of the Peloponnesian War*, about the same time. Fast forward about 10 centuries and Procopius, 6th century, *History of the Wars*, namely. One sees descriptions of savagery towards civilians, women, children, the drinking of blood of the enemies. Another jump of several centuries up to the XVth century, and one reads Cristoforo Riccherio, George Sphrantzes, Makarios Melissenos, chronicling the *Fall of Constantinople*[22]. Or, if one prefers to stay within Christendom, one can read chronicles of the fourth crusade and what the Latin Christian crusade armies did to the civilian population in Christian Constantinople in early 13th century[23], after being redirected there.

And, much more recently, one can, and should, remember the atrocities of WWII, namely but not only by the Nazis, by the Imperial Japanese Army, such as its infamous *Unit 731*.

And at present days, what is going on in Ukraine with constant bombing of civilians and non-military structures, the kidnaping of children, or «*Gaza has become worse than hell on earth*», as the head of the International Committee of the Red Cross has told publicly the BBC.

21 In PROCOPIUS *History of The Wars, however,* one can read the following: «*and so these men at first resorted to unaccustomed foods and laid hold on every forbidden thing, and at the last they even tasted each other's blood. So the generals realized that they had been deceived by the barbarians, and they reproached the soldiers for their lack of self- control, because they had shown themselves wanting in obedience to them, when it was possible to capture as prisoners of war such a multitude of Persians*», *History of the Wars, Books I And II*, H. B. DEWING, translated by, p 76.

22 *The Siege of Constantinople 1453: Seven Contemporary Accounts*, translated by J. R. MELVILLE JONES, Amsterdam, Adolf M. Hakkert — Publisher, 1972. For example: «*After the Turks had entered the city in this manner, they set about sacking it, slaying anyone who opposed them. They swarmed about the place, and gave vent to their natural cruelty and inhumanity with every kind of cruel and lustful act, showing respect neither to sex nor to age. Some they murdered, some they debauched, they hustled the weak and aged into slavery and they chained together the young, both male and female, of every class. When they found any well-formed girl, they struggled with each other to possess her, and for the sake of the sacred treasures they fought to the death on many occasions. Their airily, compounded of so many nations, customs and languages, spent three days in sacking the unfortunate city. There was no act, however wicked, that was not committed by these heathen. ... Mehmet had them brought to his camp, and as he had promised his viziers and his other officers, ordered many of them to be hacked to pieces, for the sake of entertainment.*», 5, CRISTOFORO RICCHERIO, *The capture of Constantinople in the year 1453 on the twenty-ninth day of May*, pp 123 – 124.

23 «*For three days they murdered, raped, looted and destroyed on a scale which even the ancient Vandals and Goths would have found unbelievable. Constantinople had become a veritable museum of ancient and Byzantine art, an emporium of such incredible wealth that the Latins were astounded at the riches they found. Though the Venetians had an appreciation for the art which they discovered (they were themselves semi-Byzantines) and saved much of it, the French and others destroyed indiscriminately, halting to refresh themselves with wine, violation of nuns, and murder of Orthodox clerics. The Crusaders vented their hatred for the Greeks most spectacularly in the desecration of the greatest church in Christendom. They smashed the silver iconostasis, the icons and the holy books of Hagia Sophia, and seated upon the patriarchal throne a whore who sang coarse songs as they drank wine from the church's holy vessels.*», SPEROS VRYONIS, (1968, p. 152).

IV CHALLENGES: A TENTATIVE LISTING

We have tentatively identified supra some of the challenges that IHL is facing. Such as:

- Technological advances, such as AI, autonomous weapons, robotics;
- Evolution and sedimentation of the individual in international law;
- *Televised* wars as catalyst of global awareness;
- A permanent member of the UNSC waging war with disregard of international law, including IHL;
- Another permanent member supporting in several ways a State continuous behaviour of an utter disregard of IHL and ICL in Palestine providing a mantle of almost impunity, even in the face of children being consecutively killed, ambulances bombed, and so on, and so on;
- A certain recent trend in the *mercantilization* of IHL or transactional law (and, *e.g.*, International Human Rights, International Criminal Law) thus downgrading it to some sort of international business law branch, transforming it, or putting it aside, in favour of megalomaniacal real estate developments, neo-colonial natural resources agreements, and so on;
- As a challenge and as a consequence, a certain growing disbelief, hence a downgrading in the culture of compliance, in IHL in particular, and in International Law at large[24], can be detected in some Areopagus.

There are others, and other approaches, however. For example, and for reference and further studies, the ICRC in a recent report[25] proposes the following systematic listing: a) The prohibition of nuclear weapons: Protecting humanity from unspeakable suffering; b) Clarifying the legal framework: 'Grey zones', 'competition', 'hybrid warfare' or 'proxy warfare'; c) Towards more effective protection for people in the hands of parties to armed conflict; d) Balancing in good faith the principles of humanity and military necessity in the conduct of hostilities; e) Applying IHL to new technologies of warfare; f) Protecting and facilitating impartial humanitarian work in evolving conflicts; and, g) Building a culture of compliance with IHL.

Let us now proceed with some of the challenges mentioned:

IHL has had a constant dialogical friction with technological advances. *Today*, *e.g.* AI, autonomous weapons systems, *killer robots*, and so on. *Yesterday*, nuclear weapons, chemical weapons, biological weapons. In the XIX century, the torpedo, the ram[26].

Hence, in effect, nothing new here. This difficulty of International Law in keeping pace with technological inventiveness is an old problem, an acquainted nemesis of a proper and effective

24 Let us be reminded by the famous words of HERSCH LAUTERPACHT «*if international law is, in some ways, at the vanishing point of law, the law of war is, perhaps even more conspicuously, at the vanishing point of international law.*», (1952, pp 381–2).

25 *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts: Building a Culture of Compliance for IHL to Protect Humanity in Today's and Future Conflicts*, ICRC, 2024.

26 For example, and for a mere illustration let's bring in here words written almost a century and a half ago: «*An interesting question for us to ask ourselves is, whether in the future history of warfare there is likely to be any such proscription of weapons through sheer dislike or horror as was common in the Middle Ages. I am myself not convinced but that hereafter there may be a very serious movement in the world on the subject of some parts of the newly-invented armament. Let us just take into our consideration two new inventions, which have shown themselves capable of causing terrific destruction - two new implements of naval warfare, the Ram and the Torpedo.*», (MAINE, 1888).

IHL. One can perhaps say with the old adage, *old wine in new bottles*. The AI, the robots, etc., are new, but, basically, the challenges are the same: how to keep IHL coping with new weapons, new ammunitions, new warfare methods[27]. This is thus a first identified challenge to IHL.

The Secretary General of the United Nations have justifiably been very vocal on it. Also, the International Committee of the Red Cross and others, including, eg., international organizations, NGOs. For a very quick broad set of examples[28], the Council of Europe, the OSCE, the Holly See, the Human Rights Watch.

One just needs to recall, among many others, the following: the *Current developments in science and technology and their potential impact on international security and disarmament efforts, Report of the Secretary-General*, 2024[29], *Joint call by the United Nations Secretary-General and the President of the International Committee of the Red Cross for States to establish new prohibitions and restrictions on Autonomous Weapon Systems*[30].

As the Secretary General of the UN said, already a few years back, «*It would be "morally repugnant" if the world fails to ban autonomous machines from being able to kill people without human involvement*»[31]. More recently, it was reported that «*The UN secretary-general's call for a legally binding instrument on autonomous weapons presents challenges and opportunities for states.*»[32].

Note that, recently, on December 2, 2024, the United Nations General Assembly adopted a resolution on Lethal Autonomous Weapons Systems with overwhelming support: 166 votes in favor, 3 opposed (unsurprisingly the Russian Federation, Belarus, Democratic People's Republic of Korea), and 15 abstentions. At about the same time the United Nations Office for Disarmament Affairs, Convention on Certain Conventional Weapons – Group of Governmental Experts on Lethal Autonomous Weapons Systems (2024)[33], made what some call remarkable progress on the issue of LAWS (Lethal Autonomous Weapons Systems).[34] These discussions have recently expanded to the Human Rights Council and the UN General Assembly.

New weaponry, new ammunitions, thus an absence from specific IHL regulations, does not equate with a full permission to its use. On the contrary. Remember still the Martens clause.

---

27 And how these new *technological wonders* will impact war itself and the decisions to go to war, and then again, the need for new or adapted IHL rules? See, with interest albeit published already more than a decade ago, addressing several of these issues, IAN KERR/ KATIE SZILAGYI, (2014, pp. 1 and ff.).

28 See, for a simple example, «*At the OSCE [Organisation for Security and Cooperation in Europe] Forum on Security and Cooperation, Archbishop Caccia, Permanent Observer of the Holy See to the UN, warned of the risks associated with the use of innovative instruments in the military sphere, starting with Artificial Intelligence, stressing the impossibility of governing such contexts by means of algorithms alone*», https://www.vaticannews.va/pt/vaticano/news/2025-02/santa-se-dom-caccia-onu-discurso-forum-seguranca-cooperacao-osce.html .

29 Seventy-ninth session, Item 97 of the provisional agenda, Role of science and technology in the context of international security and disarmament Current developments in science and technology and their potential impact on international security and disarmament efforts, Report of the Secretary-General Available at https://docs.un.org/en/A/79/224 .

30 https://www.un.org/sg/en/content/sg/note-correspondents/2023-10-05/note-correspondents-joint-call-the-united-nations-secretary-general-and-the-president-of-the-international-committee-of-the-red-cross-for-states-establish-new .

31 https://www.reuters.com/article/world/uns-guterres-urges-ban-on-autonomous-weapons-idUSKCN1NA2PQ/ .

32 https://www.lawfaremedia.org/article/considering-a-legally-binding-instrument-on-autonomous-weapons .

33 https://meetings.unoda.org/ccw-/convention-on-certain-conventional-weapons-group-of-governmental-experts-on-lethal-autonomous-weapons-systems-2024.

34 See for further, BENJAMIN PERRIN, (2025, pp. 1 and ff.), available here in PDF format: https://www.asil.org/sites/default/files/ASIL_Insights_2025_V29_I1.pdf .

Turning the page and not exactly a new challenge, as widely known, but a constant heavy minus in IHL – in clear contrast with International Human Rights Law – is the fact that there are no specialized courts or par-courts regarding IHL, neither universally, neither regionally. That does not mean that there are no courts at all adjudicating or providing opinions on IHL – we have the International Court of Justice[35], the International Criminal Court, even human rights courts doing it, albeit in a *fragmented* way.

All of the above, when aggregated, create a «perfect storm» for security and international law issues, including the UN Charter system. And at various other domains. And even more so to IHL.[36]

Particularly in relation to IHL one believes, unfortunately, that we may be witnessing an existential threat. Indeed, if some of the above challenges are not met with successfully, one risks a retrocession to barbaric times, one risks the transmutation of IHL as proper international law into a *mere* sort morality and/or *comitas gentium*. That is, the re-emergence of *Might is Right*, the bullying becoming norm, the re-emergence of wars without rules, the revival of Cicero's *Silent enim lēgēs inter arma* – that is, as known, in times of war laws fall silent.

Hence, IHL is indeed facing its *regina viarum* and thus *Quo Vadis*? One can simplistically can say that IHL (or the values and objectives it purports) has travelled through time basically as *Silent enim lēgēs inter arma,* moving into *Inter Arma Caritas*, to a generally respected true body of law (even if with imperfections, such as the *justice of victor's* effect), and now, to *what*? To another dimension out of the Law domains? To a mere soft law province, whatever in here would soft law entail? To a *footnote* of international relations, specially within the realistic approaches? As said earlier, to a deconstruction of this (and others) branch of international law and consequential metamorphosis into morality and/or *comitas gentium*? To an unimportant sub-branch of a revamped international business law? To a clear and unsurmountable fragmentation in terms of subject's applicability: it may be applied to the weak (and invaded) but never to the powerful ones?

International Law in general is far from a perfect well-oiled machinery that applies everywhere every time. We all know it. But is still Law, it is still necessary to regulate the international community, it is still applied most of the times, to most of the situations, etc...

It is still, even more so in times of crisis, a beacon of hope.

35 Showing what was plastically described as *the Humanitarian Face of the International Court of Justice,* GENTIAN ZYBERI in his Book, *The Humanitarian Face of the International Court of Justice: Its Contribution to Interpreting and Developing International Human Rights and Humanitarian Law Rules and Principles,* Intersentia, 2008. See, for example, the ICJ's Advisory Opinion on the legality of the threat or use of nuclear weapons (1996), Advisory Opinion on the construction of a wall in Palestine, 2004, Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem Summary of the Advisory Opinion of 19 July 2024, DRC v. Uganda (Armed Activities) and others, such as (Reparations).

36 See the following *crude and nude* remarks opening one of the most famous and respected Manual on our branch of law «*IHL is marked by four main features. First, IHL applies only during situations of armed conflict, or, in other words, violent situations resulting from a failure of the law that threaten the very survival of the individual, communities or States. Second, IHL mainly protects the life and dignity of persons who are perceived as the enemies of one of the parties to the armed conflict. Third, international armed conflicts (IACs) would not exist today if States respected the prohibition of the use of force in international relations, which is one of international law's most important rules. Fourth, IHL is part of public international law, which is characterized as a mainly self-administered horizontal legal system that lacks a centralized system of adjudication and enforcement for most of its rules. Consequently, IHL too suffers from the absence of a centralized adjudication and enforcement system. These four features of IHL not only weaken it, but also would make it surprising if the parties to a conflict always respected IHL or if its rules were uncontroversial.*», MARCO SASSÒLI, (2024, p.1).

IHL faces the same above identified perils, plus some additional ones pertaining to its particular nature, as mentioned earlier. But it still is Law. Its Geneva bloc, particularly the 1949 conventions are basically universal. And proper Law. One just needs a quick check into the ratifications of each of the four conventions. Parts of the Hague bloc, so *ancient* they are, but still so present in our days. The Martens clause[37] is still very much in place.

The International Criminal Court[38], in spite of jurisdiction limitations, in spite of threats, in spite of unspeakable sanctions, is very much on the field protecting, or trying to protect, IHL (and not only).

This inevitable '*siamese twins*' relation of IHL with International Criminal Law must be emphasized. And not solely reduced to Rome and the ICC. Needs to be reinforced, structured, fine-tuned, perhaps even leading to the creation of international ad-hoc courts[39], and, perhaps also, via some adequate enlargement or gradual wide spreading of the *Universal Jurisdiction* tool[40]. It is never too much to underline this role of essentialia that ICL has in relation to IHL, even if only to parts of IHL (one could add, to the most relevant parts of IHL).

The International Court of Justice has been developing and incrementing effectiveness and awareness of several chunks of IHL, both in advisory opinions and in contentious jurisdiction. Regional Human Rights Courts such as the Inter-American and European ones are gradually

37 *«"Until a more complete code of the laws of war has been issued, the High Contracting Parties deem it expedient to declare that, in cases not included in the Regulations adopted by them, the inhabitants and the belligerents remain under the protection and the rule of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of public conscience." It is named after Fyodor Fyodorovich Martens, who introduced the clause for the first time in the Preamble of the 1899 Hague Convention (as a compromise in discussions on the treatment of fighters not accorded prisoner-of-war status). The Martens Clause, understood today as of general applicability, has acquired the status of a customary rule and has been adopted, either in whole or in part, by other IHL instruments. The effect of the clause is to underline that in cases not covered by IHL treaties, persons affected by armed conflicts will never find themselves completely deprived of protection. Instead, the conduct of belligerents remains regulated at a minimum by the principles of the law of nations, the laws of humanity, and from the dictates of public conscience.»*, purposedly cited from the ICRC glossary, https://casebook.icrc.org/a_to_z/glossary/martens-clause .

38 And one must remind former ad-hoc international courts also, such as the International Criminal Tribunal for the Former Yugoslavia (ICTY).

39 See, recently, the purposed creation of an international court by the Council of Europe: «*PACE calls for accountability and justice for Russia's war of aggression against Ukraine - Council of Europe Office in Ukraine*».

40 Check, with interest, «*This eleventh edition of the UJAR testifies to the enduring role of extraterritorial and universal jurisdiction as a central pillar of the global fight against impunity. Notably, 36 new cases were opened or made public in 2024, and 27 suspects were convicted in first instance or on appeal, nearly double the number in 2023. Furthermore, Portugal joined the group of jurisdictions actively prosecuting international crimes committed abroad. Legal reforms on universal jurisdiction were adopted in Germany and Denmark in 2024, that respectively strengthened and enabled the investigation and prosecution of international crimes in the two countries. The year also witnessed several positive developments in specific cases. In France, a Court of Appeal confirmed an arrest warrant against former Syrian president Bashar al-Assad. In two other cases related to the former Syrian regime, French judicial authorities confirmed that functional immunities do not apply in international crimes cases and entered convictions in absentia. These cases reflect the continued evolution of the legal framework around immunities and demonstrate that obstacles to accountability can be eroded through legal precedents. In Switzerland, Ousman Sonko, former minister of the interior of The Gambia, was convicted of crimes against humanity and sentenced to 20 years in prison, making him the highest-ranking State official tried under the principle of universal jurisdiction before a European court to date. Challenges to the use of universal jurisdiction remain At the same time, the report underscores some of the challenges faced in 2024. The failure to open investigations based on extraterritorial or universal jurisdiction into alleged international crimes committed in Gaza has been perceived as a major threat to the legitimacy of international criminal justice. Even in other situations, investigative efforts have yet to yield tangible results, such as in the case of crimes committed during Russia's full-scale invasion of Ukraine, and calls for accountability do not always translate into action, as has been the case for the documented crimes of the Belarusian regime.*», TRIAL International, Universal Jurisdiction Annual Review 2025, available at https://redress.org/news/universal-jurisdiction-annual-review-2025-new-developments/ . See also https://www.justiceinfo.net/en/109532-philip-grant-ukraine-revival-universal-jurisdiction.html , here one can read that the Ukraine war is accelerating a revival of universal jurisdiction.

dealing with, and guaranteeing IHL principles. Universal committees within the UN Human Rights system are doing the same; for example, the Human Rights Committee, namely in its general comments Nos. 29 (2001) and 31 (2004), but one also sees references and/or alerts and/or developments of IHL in the words of the Committee on the Rights of the Child, the Committee against Torture, the Committee on Economic, Social and Cultural Rights.[41]

Shall we then move towards a comprehensive system inspired by ECHR-ECtHR and similar ones? Even if a temptation that seems unfeasible, at least in the near future. Or, shall we, instead, go back to Cicero *locution*, when the perpetrator is powerful and boastful and international security speaks louder – and in absolute terms - than the humanitarian reasons?

Most probably, IHL can still find its way, within its present boundaries, powers and limitations, perhaps reinforced in its legitimacy and necessity amplified by the televised wars and occupations of today, by the power of a camera installed in every phone, by the very crude idea that no-one should be above the Law no matter how big or bully that someone is, and reinforced also with new norms, even new treaties that should, and must, address the complexities of autonomous weapons systems and other challenges, along with a popularization of IHL, a reinforcement and generalization (including, and this is another challenge, by the so-called private sector/business entities[42]) of a culture of respect of its principles, of the teachings of IHL at universities but also at military institutions.

Other relevant challenges can be easily identified, namely in terms of environmental protection, the guarantee to the access to water and potable water, the effective protection of cultural sites, the need to envisage and implement protection to animals in times of war, besides, of course, the new *faces* of war such as cyber warfare.

V THE CHALLENGE OF ALL THEM ALL: INTERNATIONAL LAW – INCLUDING IHL – NOT REALLY LAW?

Another important and structural challenge: International Law is – no matter if in a fragile mode – still Law. Or it's not really Law? Is it something else? Can it become *transactionalized*? *Mercantilized* such as making Gaza a new Riviera, or transforming the Donbass into a sort of very profitable international joint venture (without Ukrainians)?

41 See, for example, for some further explanations and details, albeit already dated, United Nations, *International Legal Protection of Human Rights in Armed Conflict*, 2011, pp 106 and ff.

42 See, the above-mentioned ICRC report International Humanitarian Law and the Challenges of Contemporary Armed Conflicts, and, for example, MARTEN ZWANENBURG, (2024), available here https://lieber.westpoint.edu/role-private-sector-ensuring-respect-ihl/ . In here we can read the following, «*The private sector can contribute to ensuring respect for IHL not only by refraining from committing or aiding IHL violations, but also by taking positive measures. In many cases it can exert considerable influence on parties to armed conflicts through various instruments. Such instruments include contracts. (...) A second instrument available to business entities is their influence or "leverage." (...) A final example of an instrument business entities have at their disposal, and the most far-reaching one, is to exit the relationship or country concerned. Provided the reasons for doing so are made clear, this can send a strong message. An example, although related to allegations of genocide rather than IHL violations, is the Japanese company Itochu. This company recently ended its cooperation with an Israeli company closely linked to the Israeli military, citing provisional measures imposed by the International Court of Justice against Israel in the case brought by South Africa. A final way in which business entities can help ensure respect for IHL is by contributing to accountability efforts. This can take various forms. For instance, business entities may provide financial support, like Microsoft did in 2007 when it donated $100,000 to the Extraordinary Chambers in the Courts of Cambodia (ECCC).*».

It is indeed Law. However, a very particular kind of Law, in several ways, one can add[43]. It is weaker, less easily grasping from a pure juridical stand, less evolved in a certain way, less enforceable, more prone to shifts dictated by realpolitik demands, more vulnerable to positivist attacks, more cynical, fragile when analyzed by ideals of justice, equality, reasonability. However, as already said, not the best of, but still Law. And International Humanitarian Law is still Law, and is not (at least as of now) merely soft law – whatever the definition, among the proper ones, of soft law one might adopt.

But, again, we ask: Is International Law really Law? Including IHL? Is it Law proper? Including IHL? Binding? With coercibility? Is it like domestic Law[44]? A mere appearance of Law? It seems, at a first uninformed glance, not to have its own juridical rules, nor judges nor police «*ni loi ni juge ni gendarmes*»[45]. Etc., etc.

This one is an old question, indeed[46].

And unfortunately, being repeated, being posed, being thrown, being *brought back to life*, again and again, especially when new moments of international crisis arise, as now is happening.

It is a *question with a long history*. For example, JOSÉ MENDES, long ago, in 1911, posed the following: «*Does international law really exist? The set of principles and rules to which this name is usually given, is it not rather a purely ethical or moral system rather than a legal system?*» [47]. Then he

43 International law was already described as an *alien from the invisible depths of outer space*!... Donaldson MR, Arab Monetary Fund v. Hashim and others, (No 3), 1990. Available at, for example, https://vlex.co.uk/vid/arab-monetary-fund-v-792746621 .

44 One should not forget that the principles and commands of IHL shall be implemented also by domestic courts, as a general obligation and also, in several cases, as a matter of universal jurisdiction.

45 On this, for example, «*some preliminary considerations in order to assess the old saying that the international community has 'ni loi ni juge ni gendarmes' and to outline the general philosophy underlying this book. The proliferation of legal norms is undoubtedly the most striking development in international relations in recent years. This is true especially for treaty norms, and we need not remind the reader of the ever-growing number of treaties being concluded among States. The current tendency to internationalise the regulation of all kinds of relations through treaties stems from real needs. This trend has led to the transferral of regulations concerning economic, commercial, social, and even more "intimate" aspects of national life, such as domestic economic policy and the protection of human rights, from the national to the international sphere. The significant increase in the production of international rules is also due to the staggering number of resolutions passed by international organisations. Even when non-binding in character, these resolutions, particularly those of the United Nations, constitute an essential reference point to ascertain international customary norms and interpret treaty rules. A further striking element is the qualitative evolution of the production of international rules. International law increasingly draws on values of human solidarity and justice. These values have been clearly incorporated into both treaty and customary international law, and are exemplified by the fundamental principles developed over the last sixty years, including the prohibition of the use of force in international relations, granting the right to self-determination, recognition of a State's permanent sovereignty over its natural resources, and the protection of human dignity from any infringement. This progression is the result of the overwhelming pressure exerted on States as subjects of the international community*», BENEDETTO CONFORTI/ ANGELO LABELLA, (2012, p. 1).

46 JOHN AUSTIN, a famous English author stated, in its *Lecturers on Jurisprudence or the Philosophy of Positive Law*, 1874, that in the inexistence of a superior authority to determine the application of international law and given the debilities of international law sanctions, international law could only claim a moral obligatory force and not a juridical one.
One must point that this critic is not entirely incorrect in some assumptions of fact but draws incorrect conclusions, and besides, even in domestic law there are rules without sanctions, for example article 396 of the Macau Civil Code on the natural obligations. On the other hand, one cannot simply transplant concepts and methods of domestic law to international law. Nor can one choose the tree instead of the forest to which it belongs, in a sort of *cherry-picking* exercise. On the other hand, one can resort to some known examples in domestic law. For instances, when Al Capone, famous gangster, was ruling in Chicago and controlling the crime scene, corrupting police officials and others, knowingly being the master of crime – thus violating continuously the law without being subject of sanctions – no one would say that the law in Chicago was not really law because it was not being enforced upon Al Capone. Or, in the apex of Mafia domination of Italian life with its culprits undisturbed for quite some time, Italian law, namely criminal law was still law. Further evidence of international law as being a real law, a true legal system(s) can be provided by the Nuremberg and Tokyo trials in which horrible atrocities committed before the end of World War 2, were met with penalties.

47 JOSÉ MENDES, (1911, p. 299).

answers unequivocally: «*There are two currents among writers: one answer (...), which is in favour of the existence of international law. The evolutionary march of society gives it greater consistency and vitality every day. while the raison d'être of the opposing current, is progressively losing ground. The harmonious coexistence of states in international society is today an incontestable and undisputed fact: and Ubi societas, ibi jus*»[48];

However, like an eternal boomerang, a century later we are still being faced with the same question. And the answer is the same: yes, International Law is law, indeed.

For example, and with assertiveness thus *allowing* for a long citation:

> «*But is international law really law? Unfortunately, this question is still being asked, and not only by law students. The answer depends on what is meant by 'law'. Whereas the binding nature of domestic law is not questioned, new law students are usually confronted with the issue: is international law merely a collection of principles that a State is free to ignore when it suits it? Whereas newspapers report ordinary crimes on a daily basis, it is usually only when a serious breach of international law is alleged to have occurred that the media take notice. This can give a distorted impression of the nature of international law. Because it has no easy sanction for its breach, and there is no international police force or army that can immediately step in, international law is often perceived as not really law. Yet, the record of even the most developed domestic legal systems in dealing with crime does not bear close scrutiny. Although it is as invidious as comparing apples and oranges, in comparison with domestic crime States generally do comply rather well with international law. If, as Hart argued, law derives its strength from acceptance by society that its rules are binding, not from its enforceability, then international law is law. (...), its binding force does not come from the existence of police, courts and prisons. It is based on the consent (express or implied) of States, and national self-interest: if a State is seen to ignore international law, other States may do the same. The resulting chaos would not be in the interest of any State. While the language of diplomacy has changed over the centuries from Latin to French to English, international law has provided a vitally important and constantly developing bond between States*», ANTHONY AUST, (2010, p 3)[49].

In short, and to sum up, *again and again, and yet again*[50], the attacks on the nature of Law to International Law at large, and consequently to its branches of Law, is also nothing new. And it has been receiving the same answers: indeed, it is law.

---

48 See, still valid and alluded to in our days, «*Law is a social necessity, expressed by the Roman jurists under the famous adage ubi societas, ibi ius. the famous adage ubi societas, ibi ius. The denial of international law can only be denied by first rejecting the presupposition of which it is an inevitable consequence: the existence of an international society. The virtuality of international law is confirmed by experience, State practice and jurisprudence. But if every society must have a legal system, it is no less certain that its characteristics are determined by those of the society whose relations it is intended to govern in a given case: sic societas, sicut ius. Responding to the characteristics of international society, international law is cast in a different mold from that of that of State law.*», ANTONIO REMIRO BROTÓNS (2010).

49 Also encapsulating the structural issues of the «question»: «*The defining features of international law are that it is international, not domestic, and law, not politics. The identity of the discipline is provided by its normative character ('it tells people what to do'), and the assumption that international law can be separated from international politics*», STEVEN WHEATLEY, (2010, p. 11).

50 See, for instance, a recent summary in *Are we witnessing the death of international law?*, LINDA KINSTLER, (2025), available here https://www.theguardian.com/law/2025/jun/26/are-we-witnessing-the-death-of-international-law , where we can read, «*Trump's actions threatened "to reshape the global legal order, transforming it from one governed by law to one governed by might".*

VI SOME IHL PERSPECTIVES (AND, AGAIN, CHALLENGES) – A FEW SHORT CONCLUDING REMARKS

A) Regarding the **technological advances**, e.g. AI, autonomous weapons systems, robot killers and others coming directly from our sci-fi books, tv series and movies are presenting a serious challenge to IHL, its objectives and its values. It seems, at times, that when we turn on our tv we are watching some Star Trek series but, in fact, one is just watching real news...

And we are also witnessing a certain whitewash attempt: that is, when civilians, children, are killed inside hospitals, waiting for food, at a water distribution spot, and so on, well, the fault lies on the system, on the weapon, on the robot, on the software. Never on the people, never on the *brave soldiers*, never on the *determined politicians*...

One cannot accept to be confronted with a case in which humanitarian workers travelling in clearly identified vehicles are bombed and killed apparently due to some glitch, some software or hardware malfunction, hence no one is to be held responsible... Unacceptable. The same goes to the massacre of children collecting water[51]. Unacceptable. A human being must ultimately be held responsible. Must be *in the loop*.

Being true that autonomous weapon systems are not specifically regulated by IHL treaty law. One just needs to remember the efforts of the UN Secretary General in this regard. However, it must be seen as undisputed that any autonomous weapon system must be capable of being used, and must be used, only in accordance with IHL norms and principles. It is an obvious need to consider that the responsibility for ensuring this rests, first and foremost, with each State that is developing, deploying and using weapons. Repeat: developing (and not necessarily engaging in war), deploying (and not necessarily being a Part to an IAC), and deploying those weapons.

The use of these weapons, autonomous in varying degrees, if not even *independent*, makes us immediately realize that they can potentially violate several general principles of international humanitarian law, including distinction, proportionality, military necessity. And a self-evident problem of liability gap arises – at least for some of these new weaponry – a conundrum of responsibilities shows up, a get-away trap door can be too tempting to avoid...

One needs also to pay attention to the following:

> «*Examining the way in which—and at which stages of their development, activation and operation—human control is currently exerted over autonomous weapon systems, through technical characteristics and operational parameters, can provide insights into the type and degree of human control necessary for IHL compliance, including standards of predictability, operational constraints, and human supervision and ability to intervene. Overall, this analysis indicates that,*

But the erosion of international law began long before Trump first took power in 2017. The relevance, and even the very existence, of international law has been up for debate since the moment it emerged almost two centuries ago. Its champions argue that it is the bulwark against another great war, a restraint against criminality and mass violence. Its critics argue that, far from shielding the world from the worst crimes, it has instead protected states by providing them with a language with which to justify their wrongs. International lawyers are themselves divided over whether their discipline is alive and well, in hibernation, in its death throes, or long ago deceased, a "moral ghost" that hovers over the world map.».

51 IDF blames 'error' for Gaza strike that killed children collecting water, https://www.washingtonpost.com/world/2025/07/13/israel-gaza-idf-children-killed/ .

> *under IHL, there will be limits to lawful levels of autonomy in weapon systems. States should now begin to determine where internationally agreed limits must be placed by assessing the type and degree of human control required, in the use of weapons to carry out attacks, to ensure compliance with IHL. This assessment should also consider the level of human control required to satisfy ethical considerations, which may call for additional limitations.*» (NEIL DAVISON, 2018, p. 18).

One needs to really build technical-juridical approaches and solutions in order to prevent an easy off-the-hook scenario by putting, and ending it there, the blame, the guilt, the responsibility in the system itself, in a fluke of the system, in whatever malfunction of the hardware or the software. For example, one can work in here with solid institutions such as objective responsibility in private law (civil law), to provide just an example.

As stated, and in a summary fashion, both the ICRC and the CCW Group of Experts have elaborated in some detail on various requirements under IHL that apply to Lethal Autonomous Weapons Systems (LAWS).

A synthesis, albeit relatively long, using other people words giving its extremely technicity, of these obligations includes the following key points:

> *State responsibility: States must ensure that LAWS they develop or deploy comply with IHL.*
>
> *Accountability: LAWS require "[c]ontext-appropriate human control and judgement" to ensure compliance with IHL. Human operators, commanders, and superiors remain accountable under IHL for their use of LAWS.*
>
> *Distinction: LAWS must be capable of distinguishing between civilians and combatants, civilian and military objects, and active combatants and those hors de combat (incapable of participating in hostilities due to injury, incapacitation, or surrender).*
>
> *Proportionality: LAWS must be able to determine whether the expected incidental harm to civilians and civilian property would be excessive compared to the anticipated concrete and direct military advantage.*
>
> *Precautions in attack: LAWS must be capable of canceling or suspending an attack if it becomes evident that the target is not a legitimate military objective, is subject to special protection, or the attack would be disproportionate.*
>
> *Principle of humanity and dictates of public conscience (the Martens Clause): LAWS can only be used ethically, even with aspects not covered explicitly by IHL. It may be argued that "life-and-death decisions in armed conflict ceded to machines"crosses such a line.*
>
> *Weapons reviews: Under article 36 of Additional Protocol I to the Geneva Conventions, States must ensure that any "new weapon, means or method of warfare" would not run afoul of international law. This involves an evaluation of their predictability and reliability to function as intended, without errors or unintended consequences.*» (BENJAMIN PERRIN, 2025, pp. 3 - 4)[52].

52 See also, ICRC commentary on the 'Guiding Principles' of the CCW GGE on 'Lethal Autonomous Weapons Systems', available at https://documents.unoda.org/wp-content/uploads/2020/07/20200716-ICRC.pdf .

The above-said is very recent and contains the identification of the basic issues and challenges and brings prospects of (some) solutions[53].

One needs, in principle and as a starting point, to look at State responsibility, at individual criminal responsibility, including operators and developers, as well as chain of command, and at Corporate/Commercial responsibility.[54]

The picture is complex. The future is challenging. IHL can and will provide answers, driven by humanity, the UN the ICRC, etc. Some answers already exist today partially, namely by resurrecting the Martens clause.

B) Other issues should have been mentioned and developed, such as environmental protection, water protection and access[55], protection of animals[56], but it was simply not possible to do so in a paper of this nature.

The recent political nature issues such as the ones involving permanent members of the UNSC, either directly such as the case of Russia vis-à-vis its invasion of Ukraine, or indirectly, such as vetoing resolutions regarding the Middle East situations, were also only mentioned and identified and could not be developed. In here, in these factors, rest the main challenges, better said, the main threats to IHL and its eventual downgrading, loosing the Law component in it and becoming something *like International Humanitarian Morality* or *International Humanitarian Courtesy*, or thrown into a minor and subjugated section of a new Mercantile International Law or, better said, perhaps, Transactional International law (the gives and takes of deals).

Besides, it is undoubted and irrefutable that IHL correlates with international security and it helps, in some ways, to uphold or return to it. The less IHL is respected the more levels of insecurity will arise in most probability and as common sense dictates and it should never be underestimated[57].

In fact, as it was recently and authoritatively stated by the President of the ICRC:

53 As well pointed out, the «*attribution and allocation of responsibility for violations of international law committed with AWS is a fundamental but complex issue. Indeed, there is a multiplicity of actors whose responsibility could be engaged at different stages and under different legal frameworks*», and, «*It is important to note that different forms and levels of responsibility are complementary, and that different actors can be found responsible in relation to the same conduct. For instance, the individual criminal liability of soldiers under ICL is concurrent with the responsibility of states for violations of IHL.*», BERENICE BOUTIN, *Legal Questions Related to the Use of Autonomous Weapon Systems*, 2021, paper was commissioned by the Advisory Committee on Public International Law (CAVV) in relation to the 2021 Advisory Report on Autonomous Weapons of the Advisory Council on International Affairs (AIV) and the Advisory Committee on Issues of Public International Law (CAVV), p 7.

54 *Idem.*

55 In both cases there is an abundant literature.

56 See, for instance, *Animals in the International Law of Armed Conflict*, Edited by ANNE PETERS/JÉRÔME DE HEMPTINNE/ ROBERT KOLB, CUP, 2022. One can read, for example, «*Wildlife populations remain the unknown victims of armed conflicts throughout the world. Although they rarely disappear completely, these populations usually decline, often significantly, during warfare. Over the last fifty years, a number of species have been vanishing at a particularly rapid rate in this context, with disastrous repercussions on the food chain and the ecological balance of fragile ecosystems and protected areas such as national parks*». ANNE PETERS/JÉRÔME DE HEMPTINNE, (2022, p 3).

57 See also, TOLKIN KHOLBAZAROV, (2024), stating, namely, «*Thus, the role of international humanitarian law in maintaining peace and security should not be underestimated.*».

> «*IHL is not meant to prevent wars, but to contain excessive deployment of force. Once unleashed, unrestrained violence breeds even greater global security risks where and when you least expect. To put simply: it is in all states' interest to uphold international humanitarian law to protect the security of their own people.*» (SPOLJARIC, 2025)[58].

And now, to conclude: IHL is in crisis. No doubt about it. Perhaps even an existential one. Humanity is showing how inhumane it can be. Some are, unbelievably, and shockingly given the past, resurrecting and adapting the Untermensch topos. Some of the challenges can be seen as old wine in new bottles, even if with naturally more complexity, whereas others can really be, or come to be, a bullet to the core, an extinction event for IHL.

However, as long as one has Law in the international community, as long as we have Geneva, Hague and New York, and Rome (and maybe even others more in an ad-hoc manner as seen), as long we have the ICJ, the ICC, the Human Rights courts and UN committees, as long as we have humanity in humanity, IHL can still be Law, can still survive, with more or less problems, difficulties, disrespects.

What is the alternative? A perpetuation of Cicero famous above-mentioned sentence[59]? If, however, none of those will be able to safeguard IHL future, then we would really be living in a new, ugly, unfair, lawless, world and world order. IHL showcases more, far more, than IHL itself; it showcases Law, it showcases humanity.

58 Further stating regarding the most pressing challenges facing IHL and consequential concrete recommendations: «*Linking IHL to peace: Any armed conflict must be fought with a plan to eventually return to peace. This is why it is essential to look at how adherence with IHL can contribute to mediation efforts.*». Also, from the ICRC president, «*The chances of protecting the economic interest and security of your own people are best preserved if universally ratified agreements are respected. Because you never know when war may reach your own borders, and you find yourselves on the wrong side of the line. Upholding the Geneva Conventions is in your own core interest. IHL offers a pathway to peace. Declare it your political priority.*», https://www.icrc.org/en/statement/icrc-president-mirjana-spoljaric-international-humanitarian-law-was-created-move-beyond-division , 2024, and, ICRC president: Upholding international humanitarian law is crucial to reducing escalating costs of war, https://www.icrcnewsroom.org/story/en/1139/icrc-president-upholding-international-humanitarian-law-is-crucial-to-reducing-escalating-costs-of-war-301437 , 2026. See also, CORDULA DROEGE, (2025), affirming, for example, «*IHL cannot prevent wars or end them, nor is that its function. However, though there is no empirical evidence at the time of writing to demonstrate that armed conflicts have been short-lived or prolonged relative to their level of adherence to IHL, IHL is certainly equipped to play a part in the peacebuilding process and post-conflict recovery, albeit indirectly.*».

59 In a hypothetical future brilliantly brought to us by the Star Trek universe, and hoping that in here they got it wrongly, let us recall the following dialogue:
«*Doctor Julian Bashir: You don't see anything wrong with what happened, do you?*
Admiral Ross: I don't like it, but I've spent the last year and a half of my life ordering young men and young women to die. I like that even less.
Doctor Julian Bashir: That's a glib answer and a cheap way to avoid the fact that you've trampled on the very thing that those young men and women are out there to protect! Does that not mean anything to you?!
Admiral Ross: Inter arma enim silent leges.
Dr. Julian Bashir: "In time of war, the law falls silent." Cicero. So, is that what we have become - a 24th century Rome, driven by nothing other than the certainty that Caesar can do no wrong?», Star Trek: Deep Space Nine, season 7, episode 16, precisely entitled *Inter Arma Enim Silent Leges.*

BIBLIOGRAPHY

AMANDA ALEXANDER, *A Short History of International Humanitarian Law*, The European Journal of International Law Vol. 26 no. 1, 2015

ANTHONY AUST, *Handbook of International Law*, CUP, 2010

JOHN AUSTIN, *Lecturers on Jurisprudence or the Philosophy of Positive Law*, 1874

RAJ BALKARAN/A. WALTER DORN, *Charting Hinduism's rules of armed conflict: Indian sacred texts and international humanitarian law*, International Review of the Red Cross, 2022

ILIAS BANTEKAS, *The only true fragmentation in international law: Jus ad bellum and jus in bello*, African Yearbook on International Humanitarian Law, 2022

KARIMA BENNOUNE, *As-Salāmu ʿAlaykum? Humanitarian Law in Islamic Jurisprudence*, Michigan Journal of International Law, Volume 15 Issue 2, 1994

BERENICE BOUTIN, *Legal Questions Related to the Use of Autonomous Weapon Systems*, paper commissioned by the Advisory Committee on Public International Law (CAVV) in relation to the 2021 Advisory Report on Autonomous Weapons of the Advisory Council on International Affairs (AIV) and the Advisory Committee on Issues of Public International Law (CAVV), 2021

ANTONIO REMIRO BROTÓNS, *Derecho Internacional Curso General*, Tirant Lo Blanch, 2010

CICERO, *Pro Milone*, 52 BC

BENEDETTO CONFORTI/ANGELO LABELLA, *An Introduction to International Law*, Martinus, 2012

NEIL DAVISON, *A legal perspective: Autonomous weapon systems under international humanitarian law*, UNODA Occasional Papers, No. 30, 2018

CORDULA DROEGE, *International humanitarian law and peace: A brief overview*, International Review of the Red Cross, IRRC No. 927, 2025, available at https://international-review.icrc.org/articles/international-humanitarian-law-and-peace-a-brief-overview-927

HENRY DUNANT, *A Memory of Solferino,* ICRC

DIETER FLECK, *The Handbook of International Humanitarian Law*, OUP, 2021

CARLO FOCARELLI *Teaching International Law Today and the Human Person*, in Teaching International Law, Editors: Peter Hilpold and Giuseppe Nesi, Brill, 2024

HERSCH LAUTERPACHT, *The Problem of the Revision of the Law of War*, 29 BYBIL, 1952

ICRC, *Commentary on the 'Guiding Principles' of the CCW GGE on 'Lethal Autonomous Weapons Systems'*, available at https://documents.unoda.org/wp-content/uploads/2020/07/20200716-ICRC.pdf, 2019

ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts: Building a Culture of Compliance for IHL to Protect Humanity in Today's and Future Conflicts*, ICRC, 2024

J. R. MELVILLE JONES, *The Siege of Constantinople 1453: Seven Contemporary Accounts*, translated by, Amsterdam, Adolf M. Hakkert — Publisher, 1972

JOSÉ MENDES, *Objecções contra a existência do direito internacional público*, Revista da Faculdade de Direito, São Paulo, 1911

TOLKIN KHOLBAZAROV, *The Role of International Humanitarian Law in Maintaining Peace and Security*, University of World Economy and Diplomacy - Faculty of International Law, 2024

HANS KELSEN *Peace through Law*, Chappel Hill, 1944

IAN KERR/ KATIE SZILAGYI, *Evitable Conflicts, Inevitable Technologies? The Science and Fiction of Robotic Warfare and IHL*, Law, Culture and the Humanities, Volume 14, Issue 1, 2014

LINDA KINSTLER, *Are we witnessing the death of international law?*, The Guardian, 26 Jun 2025

H.S. MAINE, *International Law: A Series of Lectures Delivered Before the University of Cambridge, 1887*, H. Holt, 1888

NILS MELZER/ETIENNE KUSTER, *International Humanitarian Law - A Comprehensive Introduction*, ICRC, 2022

SYED ABUL A'LA MAUDUDI, *Human Rights in Islam*, 1976

JACQUES MEURANT, *Inter Arma Caritas: Evolution and Nature of International Humanitarian Law*, Journal of Peace Research, vol. 24, no. 3, 1987

RUDOLF MÜLLER, *History of the Origin of the Red Cross And Of The Geneva Convention*, and, *History of the Origin of the Red Cross and of the Geneva Convention, (Concluded)*, The Advocate of Peace (1894-1920), Vol. 59, No. 4 and 5, 1897

BENJAMIN PERRIN, *Lethal Autonomous Weapons Systems & International Law: Growing Momentum Towards a New International Treaty*, Insights, Volume: 29 Issue: 1, ASIL, 2025

JEAN PICTET, *Development and Principles of International Humanitarian Law*, Martinus Nijhoff Publishers, 1985

ANNE PETERS/JÉRÔME DE HEMPTINNE/ROBERT KOLB, *Animals in the International Law of Armed Conflict*, Edited by, CUP, 2022

ANNE PETERS/JÉRÔME DE HEMPTINNE, *Animals in Wartime - A Legal Research Agenda*, in ANNE PETERS/JÉRÔME DE HEMPTINNE/ROBERT KOLB, *Animals in the International Law of Armed Conflict*, Edited by, CUP, 2022

PROCOPIUS *History of The Wars, History of the Wars, Books I And II*, H. B. DEWING, translated, 1914

CRISTOFORO RICCHERIO, *The capture of Constantinople in the year 1453 on the twenty-ninth day of May*, in J. R. MELVILLE JONES, *The Siege of Constantinople 1453: Seven Contemporary Accounts*, translated by, Amsterdam, Adolf M. Hakkert — Publisher, 1972

JEAN-JACQUES ROUSSEAU, *The Social Contract and The First and Second Discourses*, Edited and with an Introduction by Susan Dunn, Yale University Press, 2002 (1762)

MARCO SASSÒLI, *International Humanitarian Law - Rules, Controversies, and Solutions to Problems Arising in Warfare*, Edward Elgar, 2024

MIRJANA SPOLJARIC, president of the International Committee of the Red Cross (ICRC), *Every human life deserves safety and dignity: A call to make international humanitarian law a political priority*, January 2025, https://www.icrc.org/en/statement/icrc-president-international-humanitarian-law-political-priority

MIRJANA SPOLJARIC, president of the International Committee of the Red Cross (ICRC), https://www.icrc.org/en/statement/icrc-president-mirjana-spoljaric-international-humanitarian-law-was-created-move-beyond-division , 2024,

MIRJANA SPOLJARIC, ICRC president: *Upholding international humanitarian law is crucial to reducing escalatingcostsofwar*,https://www.icrcnewsroom.org/story/en/1139/icrc-president-upholding-international-humanitarian-law-is-crucial-to-reducing-escalating-costs-of-war-301437 , 2026

TRIAL, TRIAL International, Universal Jurisdiction Annual Review 2025, available at https://redress.org/news/universal-jurisdiction-annual-review-2025-new-developments/

UNITED NATIONS, *International Legal Protection of Human Rights in Armed Conflict*, 2011

SPEROS VRYONIS, *Byzantium and Europe*, Harcourt, Brace & World, 1968

STEVEN WHEATLEY, *The Democratic Legitimacy of International Law*, Hart, 2010

HENRY WHEATON, *Elements of International Law*, Little Brown and Company, 1855

MARTEN ZWANENBURG, *The Role of the Private Sector in Ensuring Respect for IHL*, Lieber Institute, October, 2024

GENTIAN ZYBERI, *The Humanitarian Face of the International Court of Justice: Its Contribution to Interpreting and Developing International Human Rights and Humanitarian Law Rules and Principles*, Intersentia, 2008