

# National implementation of international humanitarian law; a case study of the Islamic Republic of Iran as Islamic-Pattern-State

Golamali Ghasemi<sup>1</sup>

**Received:** 2022/09/17 ; **Revised:** 2022/11/22 ; **Accepted:** 2023/01/01 ; **Published online:** 2023/02/10

## Abstract

Humanitarian law is an important branch of international law that has established regulations regarding the behavior of warring parties during war. These regulations have provided restrictions or prohibitions regarding the use of weapons during war. It supports civilians or those who are unable to continue the war, such as the wounded and wounded. Monotheistic religions have had teachings on the behavior of participants in war since the past centuries and have called people to avoid violence. The important issue in this field is the implementation of regulations at the national level. In this research, in a descriptive and analytical way, first, the legal foundations of the commitment of governments to implement humanitarian regulations are examined from the perspective of international law. Then, the common mechanisms for implementation in this The documents have been explained and the situation of the implementation of humanitarian rights in Iran has been explained. Considering the occurrence of numerous wars around Iran, there is no doubt about the importance and necessity of this research. In addition, considering the Islamic approach to conflicts in Iran and the commitment The Islamic system has Islamic support for the implementation of Islamic laws regarding the time of war, the national implementation of humanitarian rights in Iran. However, it seems that in line with these Islamic obligations as well as legal obligations arising from international humanitarian regulations, it is still necessary to teach humanitarian rights regarding wartime at the levels of universities, seminaries, armed forces and general society.

**Keywords:** humanitarian rights, national implementation of humanitarian rules, Islam and humanitarian rights, Geneva Conventions, Iran and humanitarian rights.

---

1. Associate Professor of International Law Department, faculty of law, University of Qom, Iran.  
[g.ghasemi43@gmail.com](mailto:g.ghasemi43@gmail.com)

© The Authors  
<https://www.jspt.ir/>

**Publisher:** Urwat al - Wuthqa International Academic Research Institute  
**DOI:** <https://doi.org/10.22034/jspt.2024.460500.1046>

## Introduction

National implementation is a term for the enforcement of obligations of Contracting parties to humanitarian treaties at the National level. The Geneva Conventions of 1949 and their additional protocols concluded in 1977, are the main treaties on regulations in armed conflicts. The concept of national implementation is a broad term that encompasses a range of possible actions (Yusliwidaka, 2023: 289)<sup>1</sup>. Actually, it is a comprehensive concept that contains training and promoting humanitarian Concepts, advice on forming humanitarian regulations, recommendations for accession to international humanitarian instruments and finally establishing a national body for pursuing these objects and promoting international humanitarian law (Kitching, 2022: 1328). In this article, we explain the legal framework of the national implementation of IHL according to humanitarian treaties and humanitarian customary law, with emphasis on the national implementation of IHL in the Islamic Republic of Iran and its obligations in this area. The importance and necessity of discussing the national implementation of humanitarian rights in Iran comes from the fact that in the case of the Iraq war against Iran, many aspects of humanitarian rights were raised, such as bombing and targeting civilians and civilian places such as medical and health centers. Cultural and historical places as well as educational centers (Qeshlaghi Nigjeh & Toheidi, 2017: 117-118). The cities of Iran were facing a lot of missile attacks. In addition, there was also the use of chemical weapons by the Iraqi army against military forces and ordinary people. On top of these issues, the long presence of prisoners of war in Iran and Iraq in prisons is also added. However, the national implementation of humanitarian regulations for Iran has a higher importance and position, and the discussion of this topic in universities and scientific and even military centers has gained another attraction. In this article, the legal bases of the obligations of countries, including Iran, for the implementation of humanitarian rights are first explained, and then we examine the extent of Iran's planning and executive actions in this field.

## 1. legal framework

according to Article 1 of Geneva Conventions 1949, Contracting parties are obligated to respect and ensure respect of present instruments in all circumstances as expressed in Article 1 of the additional protocol I<sup>2</sup>. However, article 80 of this protocol contains more comprehensive content with the title of

---

1. Universal meeting of national committees and similar bodies on international humanitarian law enhancing protection in armed conflicts through domestic law and policy, conference overview, Geneva, Switzerland, 30 November-2 December 2016. p. 80 available at: [www.icrc.org/en/Universal-meeting-National-committees-report.Pdf](http://www.icrc.org/en/Universal-meeting-National-committees-report.Pdf)

2. protocol 1, article 1-commentary 1987, available at: <https://ihl-databases.icrc.org/en/ihl-treaties>

measures for execution in the following order: the high Contracting parties and the parties to the conflict shall give orders and instruments to ensure observance of the conventions, and this protocol shall supervise their execution.

The duty of parties to supervise their execution is an obligation that would apply even without being stated explicitly and applies equally to paragraph 1 since it follows from the duty to respect and ensure respect which forms the basis of this article (Zych, 2009: 251)<sup>1</sup>. paragraph 2 covers the measures that have been more precisely defined while paragraph 1 emphasizes the duty of parties to take all necessary measures to this end and to do so without delay<sup>2</sup>. according to this article, there is an obligation to respect and ensure the respect of Humanitarian Law which has been expressed in these instruments, and as a result, is a duty to give orders and instructions for the execution of the Geneva Conventions and their protocols (Smith, 2020: 145-147).

These orders may include the establishment of a national body to supervise or give advice and recommendations for a regulation, or access to a convention or other legal mechanisms (Prakasa, 2021: 63). As it was mentioned, the phrase “to respect and to ensure respect” applies first and foremost to the high Contracting parties themselves, their Armed Forces, other individuals and groups acting on their behalf, and their populations as a whole. nevertheless, examples of actions of national implementation of Humanitarian Law include an extended range that contains diverse mechanisms and different individuals and groups. In addition, mechanisms of national implementation of Humanitarian Law are different in times of peace and times of War (Islam, 2017: 112-113). In times of peace shall be important To train military persons and civilians, police forces, and training at the academic level. The duty of contracting states over national implementation is not a contracting obligation alone but is an important obligation in international humanitarian customary law (Bam et al., 2020: 27). Rule 139 in customary rules is expressed as follows: “Each party to the conflict must respect and ensure respect for international humanitarian law by its armed forces and other persons or groups acting in fact on its instructions, or under its direction or control” (Henckaerts & Alvermann, 2005: 495). State practice establishes this rule as a norm of customary international law applicable in both international and non-international armed conflicts. The term armed forces, as used in the formulation of this rule, must be understood in its generic meaning. The obligation of States to respect international humanitarian law is part of their general obligation to respect international law. The obligation to respect and ensure respect for international humanitarian law is found in numerous military

---

1. Protocol 1, article 80, commentary 1987, available at:

<https://ihl-databases.icrc.org/en/ihl-treaties/api-1977/article-80/commentary/1987?activeTab=undefined>

2. Ibid

manuals. It is supported by the practice of international organizations and international conferences. There is also international case law in support of this rule. A State's obligation pursuant to this rule is not limited to ensuring respect for international humanitarian law by its own armed forces but extends to ensuring respect by other persons or groups acting in fact on its instructions, or under its direction or control. This is a corollary of Rule 149, according to which States incur responsibility for the acts of such persons or groups, and is supported by international case law to this effect. In addition, some military manuals and national legislation affirm that States are under an obligation to ensure that civilians do not violate international humanitarian law. This obligation is also recalled in a resolution of the UN Security Council (Van Galen, 2021: 36-37). It was already recognized in case law after the Second World War"<sup>1</sup>. moreover, according to the rule of 140 of the humanitarian customary law,

“The obligation to respect and ensure respect for international humanitarian law does not depend on reciprocity. State practice establishes this rule as a norm of customary international law applicable in both international and non-international armed conflicts. This rule must be distinguished from the concept of reprisals, which is addressed in Chapter 41.”<sup>2</sup>

“The International Court of Justice, in the *Namibia case* in 1971, and the International Criminal Tribunal for the former Yugoslavia, in its review of the indictment in the *Martić case* in 1996 and in its judgment in the *Kupreškić case* in 2000, stated that it was a general principle of law that legal obligations of a humanitarian nature could not be dependent on reciprocity (Kleffner, 2022: 2). These statements and the context in which they were made make it clear that this principle is valid for any obligation of a humanitarian nature, whether in international or non-international armed conflicts.”<sup>3</sup>

## **2. Establishment of a national humanitarian body**

As mentioned above, the Geneva Conventions of 1949 and additional protocols have emphasized respect and ensured respect for these instruments at the National level and have mentioned some actions to promote or train humanitarian regulation, but the establishment of a national body has passed a practical method through participation and actions of states (Kadam, 2001). some parties to the Geneva Conventions of 1949 have established national entities with different names such as committees or other names. in the 26<sup>th</sup> Conference of ICRC and Red Crescent in Geneva, 1995, the establishment of

---

1. <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule139>

2. <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule140>

3. Ibid

the National Committee as an achievement was raised and the conference recommended the establishment of national committees for implementation of Humanitarian Law to Contracting states. Therefore, the establishment of National IHL committees is recognized as an important step in ensuring the effective application of IHL and was advocated by the intergovernmental group of experts for the protection of war victims and adopted by the 26<sup>th</sup> International Conference of Red Cross and Red Crescent (Geneva, 1995). The International Committee of the Red Cross continues to support the development and establishment of national IHL committees in this framework<sup>1</sup>.

Based on the report of the International Committee of Red Cross, until 10 May 2023, 119 state parties of Geneva instruments have established the National Committee of IHL. The geographical distribution of committees is as follows:

Europe: 34; Africa: 30; Asia and Pacific: 17, Middle East: 14, the Americas: 20, and central Asia: 4.<sup>2</sup> this is interesting and questionable that there are no names of the United States of America and Russian Federation in this table while these countries are permanent members of the Security Council of UN and are involved in various Wars. However, the establishment of a National Committee of IHL isn't important by itself unless it implies to interest and gravity of the states for implementation of IHL. So, it is important to evaluate the function of these committees and the results of their actions. presence of representatives of several organs such as the executive, Judiciary and parliamentary, is an indication for effort and a positive view of the National performance of humanitarian rules at the National level. The presence of representatives from Civil Society can help humanitarian aims and National committees (Koorey & Persi, 2020: 15).

ICRC participation and other civil society entities in the implementation of IHL at the National level is an important factor (Sutton, 2020: 3). in this content, the red Crescent Society in any state is a successful example for participation of people in formation and activity of national committees, although, this Society is a part of governmental bodies that is the center for voluntary participation of all the people in humanitarian programs. More important than this sample is, the existence of the International Community of Red Cross as a universal movement of non-governmental organizations that leads and supervise of formation and

---

1. National committees for the implementation of international humanitarian law, the purpose of national IHL committees, available at:

[https://www.icrc.org/en/download/file/166978/dp\\_consult\\_14\\_national\\_committees\\_for\\_the\\_implementation\\_of\\_ihl.pdf](https://www.icrc.org/en/download/file/166978/dp_consult_14_national_committees_for_the_implementation_of_ihl.pdf)

2. IRCRC, advisory service on International humanitarian law, National committees and ... bodies on International humanitarian law as of 10 May 2023 (total by region), available at:

<https://www.icrc.org/en/document/table-national-committees-and-other-national-bodies-international-humanitarian-law>

implementation of Humanitarian Law at the National and international level. This organization in its life of more than 150 years has tried in all areas regarding Humanitarian Law such as preparation, codification, performance, supervision, and preservation of principles and the rules of IHL so that can be said any state or entity has not worked as ICRC in promotion and help to enforcement of IHL yet<sup>1</sup>. There is an innovation by ICRC related to communication between National committees which is called an “online community for national committees and similar entities on IHL”, legal fact sheet 6<sup>th</sup> April 2022. The online community is an interactive online tool that aims to facilitate peer-to-peer exchanges and cooperation among National IHL committees, the online community is a private group managed and facilitated by the ICRC.<sup>2</sup>

### **3. National Implementation of Humanitarian Law in Iran**

Due to the membership of Iran in IHL instruments including the Geneva conventions, there are many programs and operations on implementation of IHL in Iran, we reviewed them in brief coordinated by titles designed in Geneva Conventions and Iranian regulations related to this area (Arayesh, 2015: 537). This implementation include:

#### **3-1. Establishment of the National Committee on humanitarian law**

After the 26<sup>th</sup> International Conference of the Red Cross and Red Crescent in 1995 and the affirmation of national committees on IHL by the Contracting States, the Red Crescent Society of the Islamic Republic of Iran, implemented the research and enforcement activities for the achievement of this end at the National level subsequent the Iranian Council of ministers approved the act on establishment the National Committee and its regulation (1).The regulation of the National Committee on Humanitarian Law, is expressed as follows:

Due to the obligation of the Islamic Republic of Iran under Geneva Conventions 1949 and the commitment of the states to implementation of Humanitarian Law and the necessity of observance Humanity rights in armed conflicts and efforts for the relief of humanity's pains and according to article 1 and article 9(6) acts of statute red Crescent Society of IRI concluded at 1988; with commitment to humanitarian principles of religion of Islam.<sup>3</sup>

---

1. Gholam Ali Ghasemi and Shadi Mohammadi Alikhageh, position of ICRC in implementation of IHL with emphasis on armed conflict of Yemen. p. 423 in proceeding of International Conference on international law and armed conflicts in the West Asia, 13-14 October 2021, University of Qom, 1402 spring (March 2023).

2. www.ICRC.org

3. International humanitarian law concerning the protection of individuals in times of armed conflicts i r i the National Committee of IHL, applied scientific Higher Education Institute of Iranian Crescent, 2011,p. 44 (in persian)

According to Article 2 of the regulation of the National Committee, the aims of the National Committee are the promotion and groundwork for implementation of IHL at national level and participation in stabilization and observance of IHL at international area. duties and authorities of the National Committee explained in 10 clauses at article 4 of the regulation. Some duties and authorities of the National Committee are as follows:

- decision on modality of Implementation of IHL at the National level;
- supervising on observance of IHL at the National level;
- Training and promotion of humanitarian Concepts;
- preparation and recommendation of the law and regulations for the observance and implementation of Humanitarian Law and recommendation of accession of I.R.I to related international treaties<sup>1</sup>

There is a considerable matter in the regulation on establishment of the National Committee and its mandate and that is a high coordination of contents with the Geneva Conventions 1949 and approvals of the 26<sup>th</sup> International Conference of Red Cross and Red Crescent.

### **3-2. Training and promotion of humanitarian law**

According to article 3(3) the regulation of the Iranian National Committee on Humanitarian Law, training, and promotion of humanitarian concepts in Armed Forces, all the people and several training degrees, are from duties of the National Committee. Also, according to clause 10 of the same article, scientific and research exchange with stakeholders at internal and international levels is of Duties of the committee. There is an important relationship between training and promotion. Promotion is possible when is followed by training and this sequence guarantees the enforcement and observance of IHL (Bates, 2014: 5). In other words, teaching and promoting IHL lead to increased knowledge of armed forces that could prevent them from breaching IHL regulations. because maybe the armed forces' lack of knowledge is the reason for the non-performance or non-observance of IHL (Ziyae Bigdeli, 2013: 39-38). It should be noted that teaching and learning of IHL by armed forces is an obligation according to humanitarian law instruments and customary law (Ratner, 2011: 471).

According to article 47 of the Geneva Convention I, article 48 of Second Convention, article 127 of third Convention, and 144 of the fourth Convention, High Contracting parties undertakes, in time of Peace as in time of war, to disseminate the text of the present Convention as to widely as possible in their respective countries and in particular to include the study thereof in their programs of military and, if possible, civil instruction, so that the principles

---

1. for information on other clauses of the regulation of Iranian Council of ministers see:  
<https://qavanin.ir/Law/TreeText/96319>

thereof may become known to the entire population, in particular to the armed fighting forces, the medical personnel and chaplains. Dissemination of international Humanitarian Law by high Contracting parties Within their countries and subsequently Education and Training on how to apply IHL Provisions in practice is the responsibility of Contracting parties of the Geneva Conventions (Tawil, 2000: 8). moreover, this responsibility spreads to ICRC and Red Cross movement and as a result includes the national committees and the Red Cross and red crescent Society in respective parties<sup>1</sup> Nevertheless, professional training in armed conflicts law, in time of peace is the basic prerequisite for normal behavior in time of war and is a tool for the repair of the pain of the victims, the rescue of humanity and realization of a legal War. According to membership of I.R.I in the conventions on armed conflicts and its obligation to implement their contents, teaching, and promoting of principles of humanitarian law to Armed Forces is an important obligation (Saifi & Sharifi Tarazkoochi, 2020: 68)

By observation of activities of the Iranian National Committee on Humanitarian Law, we meet a large range of actions including scientific meetings, national and international conferences on Humanitarian Law and several workshops for teaching of IHL. These activities also have been performed with the participation and leadership of universities and academic individuals especially members of the Faculty of Law. thus, it seems that the Iranian National Committee with the aid of faculties of law has been successful in training and promoting Humanitarian Law in academic Society but nowadays there is an expectation concerning training and promoting IHL in General Society.

However, with the leadership of the National Committee and the participation of some faculties of law there have been many Workshops on humanitarian law was formed for armed forces and Judiciary personnel. However, "IHL is taught in Iranian universities, the Iranian Army Ministry of Defense and the Guard Corps of the Islamic Revolution (IRGC) have their specialized training centers and universities that are also active in IHL training. some NGOs and Civil Society organizations are also engaged with IHL promotion programs. Each year different academic teaching sessions are held in Iran to promote IHL. Iranian religious centers are also interested in conducting comparative studies on Islam and IHL." (Askari, 2021: 524) Many conferences on the subject that had in recent years.

In Qom on Islam and humanitarian law conference was held December

---

1. article 47 of convention, dissemination of the convention, commentary 2016, 2,749 - 2,752 available at: <https://ihl-databases.icrc.org/en/ihl-treaties/gci-1949/article-1/commentary/2016>

2015. In this conference, Islamic scholars, leaders Religious minorities and humanitarian law experts from different countries discussed and exchanged opinions regarding the protection of civilians and medical facilities, patients and corpses. Peter Maurer, the head of the International Committee of the Red Cross, and Dr. Ziaei, the head of the Iranian Red Crescent Society, also participated and gave speeches in this conference. In the final statement of this conference, it was noted: From the perspective of the participants, the promotion and publication of humanitarian rights, especially with the Islamic approach, through public education In educational centers, printing books, holding scientific meetings in universities and seminary centers is a moral and religious duty.

#### **4. Iran's participation in the development of IHL and criminalization of international crimes**

Among the core treaties in the area of international humanitarian laws, Iran has ratified the Geneva Conventions of 1949 and the 1954 Hague Convention for the protection of cultural property in the event of armed conflicts and its protocols. The country is also a member state of the 1925 Geneva Gas Protocol, the Biological Weapons Convention of 1972, and the 1993 Convention on Chemical Weapons (SWC). Iran's accession to other important IHL treaties including the 1977 additional protocols to the Geneva Conventions, the 1980 Convention on certain Conventional Weapons, the 1998 statute of the International Criminal Court and also the anti-personal mines band convention is a subject matter for discussion between different stakeholders. In 2017 Iran voted in favor of the treaty on the prohibition of nuclear weapons TPNW (Askari, 2021: 523)

As mentioned above, Iran is a party to most of the humanitarian conventions such as the Geneva Convention of 1949 as basic instruments about the protection of victims of war and the conventions on the prohibition or limitation of weapons of mass destruction, this approach is coordinated with Islamic teachings and principles that specify on the prohibition of the use of weapons of mass destruction and putting on of Civilian individuals and places as military targets<sup>1</sup> In the framework of the Islamic perspective the supreme leader of the Islamic Republic of Iran, according to this religious and jurisprudential position (Fatwa) has announced that the production and use of nuclear weapons are forbidden.<sup>2</sup>

Although the position of the I.R.I. in the formation and acceptance of IHL

---

1. for more information about Islamic viewpoint on humanitarian law see: Islam and international humanitarian law, Center of competitive research on Islam and international humanitarian law and Mizan press 2013 Tehran Iran (in Persian)

2. supreme leader of Islamic revolution said in his nuclear fatwa in addition to believing in the sanctity of nuclear weapons we also consider other weapons of mass destruction such as chemical and microbial weapons are unlawful available at: Khamenei.ir

instruments is reasonable, not accession to some conventions such as the statute of the International Criminal Court ICC or 1977 additional protocols need more inquiry and explanation. Regarding non-adherence to some conventions such as the statute of the International Criminal Court or the 1977 additional protocol, it seems that it can be understood and analyzed in two parts. First, there is a technical aspect concerning the Iranian legal system. For example in relation to the non-criminalization of international crimes such as armed crimes and breach of the IHL, one of the challenges is the complexity and long ceremonies in the legislative process which means the legislation is a common process among the execution Authority, Parliament and the Guardian Council. In addition, the guardian Council as guardian of Constitution and Islamic rules must confirm the acts of the parliament (Alizadeh Javaheri et. al, 2022) for the guardian Council, regarding acceptance of international treaties, there are jurisprudential debates and rules. For example in Islamic sharia, any domination by non-Muslims over Muslims is forbidden and there are challenges about the punishments in Iran after the Islamic revolution (Bashiriyeh, 2021: 530)

These challenges in the first part, should be resolved within the framework of legal mechanisms in the constitution of I.R.I however the second part of the challenges is related to the discriminatory and unfair behavior of world powers in important International cases for the Islamic Republic of Iran such as nuclear energy case, imposing multiple sanctions against Iran and withdraw of United States of America from JCPOA leading to mistrust and pessimism in the leaders and public opinion of Iran over International instruments and mechanisms (Habibzadeh, 2014: 151-152). The experience of the behavior of member states of the Security Council, European states and Arab governments in the war between Iran and Iraq should also be added in this case, which Their performance was not acceptable and fair (Ferretti, 1990: 211). In particular, during the use of chemical weapons and the bombing of civilian places and people in the Iraq war against Iran, as well as the nuclear case in recent years, the performance of the Security Council and some United Nations bodies was such as that Iran had not possessed from the legal interests of being a member of the International treaties.

## 5. regulations of the Armed Forces

Obligations to respect and ensure respect of Humanitarian Law is a customary rule in addition that is mentioned in international humanitarian instruments<sup>1</sup>.

---

1. the obligation of the states to respect International humanity and law is part of their General application to respect international law this obligation as mentioned in former sections of this article is spelled out in the 1929 and 1949 Geneva conventions common Article 1 of the 1949 Geneva conventions has contained this rule mentioned

Rule 139 of the Customary International Humanitarian Law expresses as follows: each party to the conflict must respect and ensure respect for international Humanitarian Law by its armed forces and other individuals or groups acting in fact on its instructions, or under its direction or control.(1)

The obligation to respect and ensure respect for international Humanitarian Law is found in numerous military manuals. it is supported by the practice of international organizations and international conferences, there is also International case law in support of this rule. in Chapter 8 of the disciplinary code of the armed forces of Islamic Republic of Iran<sup>1</sup> with the title: the part of legislations of Geneva Convention that its implementation has been approved, contains several actions and duties for Iranian Armed forces to observe the obligation of respect of Humanitarian Law, some of them as follows:

1- Article 71 of this regulation coordinated by article 4 of the Geneva Convention (III) and articles 43 and 44 of the additional protocol (I), Armed Forces personnel has considered the voluntary combatants with the conditions as subjects to the provisions of Geneva conventions. having a specific Boss and sign, openly caring weapons and of observing of laws of war are that conditions.

2- Human Behavior to all War prisoners and the wounded and disabled individuals (Article 72)

3- Caring and treatment of injured, sick, and drowning people (Article 73).

4-Prhiting Bodily harm to Injured patients and the drowning people or killing them (Article 174)

5- Immunity from Attacks on Hospital buildings and gathering places for military and civilian patients and injured, religious, scientific, and artistic buildings related to charity affairs, as well as vehicles that are specially marked for transporting patients and injured subject to non-military use by the enemy. (Article 74)

6- It is not allowed to shoot at the occupants and passengers of the enemies in military or civilian planes who are in danger and have jumped out with a parachute except for the people who participated in the Airborne operations. (Article 74)

7- Armed Forces Personnel are not allowed to commit the following acts subject to Article 75:

a) Injuring or killing the enemy who has surrendered or been captured or has agreed to a truce with him

b) Possession of objects belonging to captives that have an emotional aspect

c) Declaring that the lives of the enemy forces are not safe while they have

---

1. the disciplinary code of the automatic forces of Islamic Republic of Iran has been approved by supreme leader and Commander in Chief of the armed forces in 1990

surrendered unconditionally

- d) Looting and destruction of buildings without orders
- e) Persecution of prisoners of War
- f) Taking hostages or revenge and Collective punishment
- g) Punishment of people without legal trial except for disciplinary violations
- h) Harassing or imprisoning the representative of the enemy who comes to negotiate with a white flag
- i) Unreasonable of the White Flag or national flag or symbols of International Institutions
- j) Punishment of civilian individuals for crimes that are not personally committed

As it can be seen the disciplinary code of the Armed Forces of the Islamic Republic of Iran includes a comprehensive and clear summary that's in harmony with the provisions of the obligations of Iran according to the Geneva Conventions.

## 6. Humanitarian aid

Humanitarian aid to victims of armed conflicts and natural disasters includes food, drinking water, clothing, medicine, and other essential needs. According to Article 59 of the Fourth Geneva Convention, member states with the free passage of cargo, food aid, medicine, medicine, and Clothing must agree and these aids are distributed in accordance with Article 61 of this Convention, the cooperation and supervision of the sponsoring government or the International Committee of the Red Cross. are. Iranian Red Crescent Society is one of the oldest national societies active in the field of humanitarian aid. The report of the actions of the Red Crescent of the Islamic Republic of Iran in the field of rescue and relief, humanitarian aid to the victims of natural disasters at the national and international level, as well as dealing with the refugees of regional wars and providing assistance to the victims of these conflicts, a thick file of unique services and works in the field The humanitarian affairs of this population (Yazdani & Addelyan, 2023: 257-258). The acceptance of several million Afghan refugees as well as the refugees of the Second Persian Gulf War and other events are examples of these measures. (2)

## 7. Implementaion of IHL and slamic approach

Among the important issues in the field of humanitarian law which is always the concern of the Secretariat of the National Humanitarian law Committee of the Islamic Republic of Iran, is the long-standing history and deep roots of humanitarian law in the orders of Islam, which today attracts the attention of the trustees of humanitarian law, especially the International Committee of the Red

Cross has done (Mousavi, 2014: 117-119). This has caused the IHL committee in Iran to study and research in the field of humanitarian law in Islam, in addition to showing and proving the human, natural and historical aspect of the regulations of this discipline, to draw the world's attention to it and remove the dust of oblivion from this valuable treasure. Logical conclusion Such a process is that, in the first step, the rich and sublime culture of Islam is presented to the world, and in the second step, through the exchange of these teachings with the followers of other religions and the announcement of the progressive and friendly rules of Islam to the world, common grounds for supporting the world (NCH, 2015: 15-14) For this purpose, in 2006, the Iranian National Humanitarian law Committee, with the cooperation of seminary institutions and leading religious scholars in Qom, universities and research institutes, and especially with the cooperation and support of the International Committee of the Red Cross in Tehran and the Iranian Red Crescent Society held an international conference under the title of Islam and Humanitarian law. This conference was opened with the message of Ayatollah Nasser Makarem Shirazi, one of the great Shia authorities. He said in his message "It was imposed on Muslims not to forget humanitarian and moral issues even on the battlefield; never to victimize civilians, women and children; not even to kill animals; not to cut down trees and not to pollute the environment" (Makarem Shirazi, 2006: 13). The director general of the conference was Ayatollah Mohsen Araki. He expressed in his lecture "In Islam, the foundations of human rights are based on justice. Laws related to war and humanitarian law related to war conflicts were explained and implemented on the day of the emergence of Islam. The day when with the advent of Islam in that dark world, the spread of justice and the rule of justice was established in the Arabian Peninsula. In Islam, it is ordered to be friendly and tolerant with prisoners of war and not to start a war, that is, Muslims should not initiate war. (Araki, 2006: 20). The voice of Islam in the field of peace issues and humanitarian law existed even before the West thought about it; In this regard, for example, the following case is mentioned: the famous book of Muhammad Bin Hassan Shibani (died in 180 AH) called *Al-Siyar Al-Kabeer*, which was written in the second half of the 2nd century AH and its translation was recognized as one of the teaching resources at Harvard University in America. Therefore, legal activities in the field of humanitarian issues have been carried out in the Islamic legal system (Amid Zanjani, 2006: 27).

But the truth is that the amount of scientific research and promotion activities carried out in the field of humanitarian law during the period of the Islamic Republic of Iran, which was inspired by the teachings and thoughts of the Ahl al-Bayt school and Shiite Islam, is exotic compared to all the historical periods

of Iran and other Islamic countries.; In such a way that the interaction and reception of religious scholars and research centers of Qom seminary and universities of Iran, even the research centers of the Islamic Republic of Iran's armed forces, in education, promotion and research in the field of humanitarian law is distinguished and widespread.

This positive approach to humanitarian law in Iran during The aggression of Iraq's Baath regime against Iran 1980-1988, believing in Islamic principles and rules, made the Iranian si The aggression of Iraq's Baath regime against Iran 1980-1988de have a good and acceptable track record in terms of bombing civilian areas, using weapons of mass destruction, and dealing with prisoners of war. The huge amount of participation in humanitarian aid and the acceptance of millions of war refugees in Iran can be understood and analyzed in this context; And this factor is nothing but the positive view of the leaders of the Islamic Republic, religious scholars and scientific and religious institutions of Iran on humanitarian law, which is the latest example of the adherence of the Iranian armed forces to the principles and foundations of Islamic humanitarian law, their fight against Takfiri and terrorist groups In regional countries, including ISIS (Rezazadeh & Aminzadeh, 2019: 676-677). And the offering of martyrs is very much in this direction. The important advantage of the Islamic approach to humanitarian law is that in the context of the implementation of humanitarian rules, it is not limited to the legal regulations and the duties arising from them, but the implementation of humanitarian regulations in times of war acquires a religious and Islamic religious and duty aspect, and the member of the Iranian Armed Forces in terms of A person who is committed to Islamic orders considers himself obliged to observe humanitarian rights in times of war in any situation.

## Conclusion

Iran's measures to implement Humanitarian Law at the National level are acceptable and prominent which includes a range of programs in different fields. The establishment of the National Committee on Humanitarian Law in the participation of Representatives of various Ministries and organizations is a fundamental step in this area. The National Committee presented a wide range of programs and measures in the field of education and promotion of IHL, suggestions, reviewing the laws, and providing advice to the executive authorities regarding humanitarian law. The text of the disciplinary instruction of the Armed Forces has a high degree of harmony with Humanitarian Law. instruments which the Islamic Republic of Iran is a Contracting party and is committed to implementing their provisions. the teaching and promoting IHL in the law faculties and armed forces is extensive and diverse but at the level of the

different groups of society, more activity is still needed. concerning the accession to Humanitarian Law instruments despite Iran's membership in important documents such as the Geneva Conventions 1949, There are other documents whose accession is worth and needs more consideration. However, steps of review and approval have been done in relation to accession to additional protocols 1977 and it is necessary to complete it. However, the Islamic Republic of Iran is one of the active members of the World Red Cross and Red Crescent movement and has always been active in the world conferences of this movement and Preparatory Committees. In addition, the Islamic Republic of Iran and the Iranian people were victims of the aggression of the Iraqi Baathist regime in an imposed war and they faced a lot of bombing of Civilian cities. their military forces were also targeted by weapons of mass destruction especially chemical weapons in violation of IHL, Nevertheless, Iranian people did not experience fair treatment from International Organizations based on Humanitarian Law in front of the aggressor and violator of IHL. The important advantage of the Islamic approach to humanitarian law is that in the context of the implementation of humanitarian rules, it is not limited to the legal regulations and the duties arising from them, but the implementation of humanitarian regulations in times of war acquires a religious and Islamic religious and duty aspect, and the member of the Iranian Armed Forces in terms of A person who is committed to Islamic orders considers himself obliged to observe humanitarian law in times of war in any situation. A clearer example in this regard is the issuing of a fatwa banning the production and use of nuclear weapons by the Supreme Leader of the Islamic Republic of Iran; This prohibition of nuclear weapons is higher than the prohibition of national laws or international documents, but it creates a religious and Islamic duty for every person in Iran to never seek the production and use of nuclear weapons of mass destruction. In fact, the executive guarantee is higher and stronger than the decree and treaty; This is the advantage and exclusive feature of the implementation of humanitarian law with an Islamic approach in the Islamic Republic of Iran.

## References

- Alizadeh Javaheri, Seyyed Milad, Abbas Sheikholeslami, Jafar Kosha (2022), challenges and obstacles of criminalization and Punishment of crimes that violate humanitarian rights, *International legal research*, Volume 15, issue 56, summer 2022
- Arayesh, M. B. (2015). Regression Analysis of Effective Factors on increasing Factors on trainer's motivation of the Red Crescent Society (A Case Study, Ilam, Iran). *Procedia-Social and Behavioral Sciences*, 205, 536-541.
- Askari, Pouria (2021), Iran International humanitarian law, in the encyclopedia of public international law in Asia, volume 3, Central and South Asia. Iran Jamal Seifi, Iran United States claims Tribunal, brill niyh off leiden/Boston, 2021
- Bam, N., Shrestha, R., & Maharjan, R. K. (2020). Importance of International Humanitarian Law (IHL) Training in Armed Police Force, Nepal. *Journal of APF Command and Staff College*, 3(1), 106-119.
- Bashiriyeh, Tahmoores (2021), challenges regarding ratification of the ICC statute in Encyclopedia of public international law in Asia, Volume 3 Central and South Asia, brill.
- Bates, E. S. (2014). Towards effective military training in international humanitarian law. *International Review of the Red Cross*, 96(895-896), 795-816.
- Ferretti, M. J. (1990). The Iran-Iraq war: United Nations resolution of armed conflict. *Vill. L. Rev.*, 35, 197.
- Ghasemi, Gholam Ali and Mohammadi Alikhageh, Shadi (2023), “the position of ICRC in the implementation of IHL with emphasis on the armed conflict of Yemen” in Proceeding of International Conference on international law and armed conflicts in West Asia, 13-14 October 2021, University of Qom, 1402 spring (March 2023).
- Habibzadeh, T. (2014). Nuclear Fatwa and International Law. *Iranian Review of Foreign Affairs*, 5(3), 149-177.
- Henckaerts, J. M., & Alvermann, C. (2005). *Customary international humanitarian law* (Vol. 1). Cambridge University Press.
- Islam and international humanitarian law, Center of Competitive Research on Islam and international Humanitarian Law and Mizan Press 2013 Tehran Iran
- Islam, M. S. (2017). Domestic measures during peace time for the implementation of International Humanitarian Law (IHL). *IIUC Studies*, International Islamic University Chittagong (IIUC), Bangladesh, Vol. 14(2), Dec. 2017 pp. 111-126
- Kadam, U. (2001). Promoting Humanitarian Law at the National Level: Usefulness of National Bodies. *ISIL YB Int'l Human. & Refugee L.*, 1, 36.
- Kitching, R., & Quintin, A. (2022). The well-trodden path of national international humanitarian law committees. *International Review of the Red Cross*, 104(920-921), 1989-2012.
- Kleffner, J. K. (2022). The unilateralization of international humanitarian law. *International Review of the Red Cross*, 104(920-921), 2153-2169.
- Koorey, S., & Persi Vicentic, L. (2020). Civil Society Coalitions and the Humanitarian

- Campaigns to Ban Landmines and Cluster Munitions. *Human Rights in War*, 1-18.
- Mousavi, Fazlullah (2014), Islam is a messenger of peace and friendship (views from the perspective of Islam regarding peace with reference to international law documents), Khorsandi Publications, second edition.
- NCH (National Committee on Humanitarian law), Introduction of the National Committee on Humanitarian law, Islam and Humanitarian law, Mizan Publishing House, Tehran, 1395.
- Prakasa, S. U. W. (2021). International humanitarian law review on the involvement of the Indonesian National Military (TNI) in combating terrorism. *JSEAHR*, 5, 63.
- Qeshlaghi Nigjeh, Afshin, & Toheidi, Ahmadrza. (2017). Analyzing the war of Iraq's Baath regime against Iran from the perspective of humanitarian rights. *Scientific Quarterly of Sacred Defense Studies*, 4(3), 105-120.
- Ratner, S. R. (2011). Law promotion beyond law talk: The Red Cross, persuasion, and the laws of war. *European Journal of International Law*, 22(2), 459-506.
- Rezazadeh, H., & Aminzadeh, E. (2019). Immunity of Iranian military advisers in Iraq and Syria. *Public Law Studies Quarterly*, 49(3), 675-693.
- Saifi, Behzad & Sharifi Tarazkoohi (2020), the necessity of training of armed conflicts law in Armed Forces, scientific-educational review on Marine Science Winter 2020, volume 19.
- Smith, L. (2020). The obligation to ensure respect for IHL in the peacekeeping context: Progress, lessons and opportunities. In *Ensuring Respect for International Humanitarian Law* (pp. 145-162). Routledge.
- Sutton, R. (2020). Enacting the 'civilian plus': International humanitarian actors and the conceptualization of distinction. *Leiden Journal of International Law*, 33(2), 429-449.
- Tawil, S. (2000). International humanitarian law and basic education. *International review of the Red Cross*, 82(839), 581-600.
- van Galen, S. (2021). Analysing Non-State Armed Groups' Internal Communications: Recognising Principles of International Humanitarian Law.
- Yazdani, M., & Addelyan Rasi, H. (2023). Comparison between Iranian Red Crescent Society (IRCS) and Other Red Cross & Red Crescent National Societies in Terms of Income and the Number of Volunteers. *Emdad & Nejat Quarterly*, 15(4), 252-258.
- Yusliwidaka, A., Roisah, K., & Setiyono, J. (2022). The Development of National Law in The Context of The Implementation of International Humanitarian Law. *Croatian International Relations Review*, 28(89), 286-302.
- Ziyae Bigdeli, Muhammad Reza (2013), International humanitarian law, Ganje Danesh press & IRCRC office in Tehran, Tehran.
- Zych, T. (2009). The scope of the obligation to respect and to ensure respect for international humanitarian law. *Windsor YB Access Just.*, 27, 251.