

Impact of Humanitarian Law Violations in The World War Against The Establishment of International Legal Instruments

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ABSTRACT

World War I (1914–1918) and World War II (1939–1945) marked pivotal moments in the development of International Humanitarian Law (IHL), as they vividly demonstrated the destructive impact of armed conflict on humanitarian values. Serious violations of IHL, such as the use of chemical weapons, mass killings, inhumane treatment of prisoners of war, and acts of genocide, revealed the limitations of existing international legal instruments and prompted the establishment of a stronger legal framework. This study aims to analyze the forms of IHL violations during the world wars, examine the international community's responses to those violations, and evaluate their influence on the formation of modern international legal instruments, such as the 1949 Geneva Conventions, the 1977 Additional Protocols, and the establishment of the International Criminal Court (ICC). Utilizing a normative juridical and historical approach, this research demonstrates that the humanitarian tragedies of the world wars served as critical catalysts for strengthening international legal standards to ensure the protection of conflict victims and uphold accountability for war crimes.

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Introduction

World War I (1914-1918) and World War II (1939-1945) were the largest armed conflicts in modern history that inflicted human destruction and suffering on an unprecedented scale (Cameron N., 2018; Hidayat, 2020; Melzer, 2021; Widłak, 2015). The two wars not only changed the global political map but also fundamentally altered the way the world views the protection of human beings and human values during armed conflict (Danilenko, 2024; Suliandi W., 2025; Wicaksono & Lutfi, 2022). Violations of humanitarian law that occurred during the two world wars, including crimes against humanity, genocide, and the cruel treatment of prisoners of war, have been a major catalyst in the evolution of international humanitarian law and the formation of modern international legal instruments (Melzer, 2016; Mulyana, 2016; Wylie & Cameron, 2018).

Prior to World War I, efforts to codify the rules of war had begun with the Geneva Conventions of 1864 and the Hague Conventions of 1899 and 1907, which laid the foundations for the protection of war victims and the restriction of methods of warfare. However, the atrocities that occurred during both world wars revealed significant limitations in the legal framework that existed at the time and demonstrated the urgent need to strengthen and expand the scope of international humanitarian law instruments (Lauterpacht, 2011).

Violations of humanitarian law during the world wars have not only impacted the development of international humanitarian law but also affected the formation of the international human rights legal framework as a whole. The tragic experiences of both world wars have moved the international community to develop more comprehensive and effective legal instruments to protect human values, both during peacetime and armed conflict (Maniku M. K. AU3 - Sualang D. A., 2023).

This research aims to analyze the impact of violations of humanitarian law during World Wars I and II on the formation of modern international legal instruments. In particular, this study will examine: (1) the forms of violations of humanitarian law that occurred during the two world wars, (2) the international community's response to these violations, and (3) the influence of such responses on the development of international legal instruments, including the 1949 Geneva Convention, the 1977 Additional Protocol, the establishment of international courts, and other relevant international legal instruments (Siregar S. A. 2024).

International Humanitarian Law (IHL) is a set of rules that seeks to limit the humanitarian impact of armed conflict. This law is often referred to as the law of armed conflict or the law of war (*jus in bello*). The main purpose of IHL is to limit the tools and methods of warfare used by the parties involved in the conflict and to guarantee the protection and humane treatment of those who do not, or no longer, take part directly in hostilities. In short, IHL consists of rules of international law that set minimum humanitarian standards that must be respected in situations of armed conflict (Iqbal & Zainuddin, 2021; O, 2020; Rahman et al., 2019; Rahmawati & Joeri, 2019; Suriadi & Hermita, 2020). The gross violations of IHL during World Wars I and II, such as mass killings, the use of chemical weapons, and the cruel treatment of prisoners of war and civilians, are clear evidence of the need for stronger and binding international legal instruments. The humanitarian tragedy prompted the international community to establish various legal instruments, such as the 1949 Geneva Convention and the International Criminal Court (ICC), to ensure accountability for war crimes and respect for humanitarian principles. Thus, the violation of human rights in the World Wars became an important turning point in the formation and strengthening of international legal instruments to prevent the recurrence of similar atrocities in the future.

This study is based on a doctrinal and historical approach (normative juridical analysis), by analyzing primary sources such as laws and regulations, official treatises in law-making, and court decisions that have binding legal force, as well as secondary sources such as legal literature, including books, scientific articles, research results, and opinions of legal experts that provide explanations of primary legal materials.

Method

This study employs a normative juridical research method, which focuses on analyzing legal principles, doctrines, and frameworks related to international humanitarian law (IHL). The research also incorporates a historical approach to trace the evolution of legal instruments in response to violations during World Wars I and II. By combining doctrinal analysis with historical context, the study aims to provide a comprehensive understanding of how these violations influenced the development of modern IHL. The normative aspect involves examining primary legal sources such as treaties, conventions, and court decisions, while the historical aspect contextualizes these legal developments within the broader timeline of the world wars.

The data population for this research includes primary legal documents such as the Geneva Conventions (1864, 1929, 1949), the 1977 Additional Protocols, and rulings from international tribunals like the Nuremberg Trials and the International Criminal Court (ICC). Secondary sources comprise scholarly articles, books, and reports on IHL and war crimes. The sampling technique is purposive, targeting key legal instruments and landmark cases that

directly address violations of humanitarian law during the world wars. This ensures the relevance and depth of the analysis. The research instrument consists of a structured framework for reviewing and categorizing legal texts, supported by qualitative content analysis to identify themes and patterns in the data.

Data collection involves reviewing and synthesizing legal texts, historical records, and academic literature. The procedure includes identifying relevant documents, extracting key provisions, and analyzing their implications for IHL development. Software tools like NVivo or Atlas.ti may be used to organize and code qualitative data for thematic analysis. To ensure validity, the research cross-references primary and secondary sources, while reliability is maintained through consistent application of legal interpretation methods. The data analysis technique combines descriptive and critical approaches, examining both the textual content of legal instruments and their practical impact on international law. This dual focus strengthens the study's conclusions about the transformative role of wartime violations in shaping IHL.

Results and Discussion

Violations of Humanitarian Law in World Wars I and II

International humanitarian law aims to limit the impact of armed conflict by protecting people not involved in hostilities, such as civilians, and regulating the means and methods of warfare that are allowed. Serious offenses, such as war crimes, crimes against humanity, and genocide, are often the focus of major post-conflict conflicts such as the two world wars. These legal sources include the Geneva Conventions, international customary law, and post-war developments, such as the Nuremberg Trials, which established the concept of crimes against humanity.

World War I (1914–1918) marked an era in which humanitarian law was still developing, with several violations that included the use of toxic gases, such as chlorine and mustard gas, especially by Germany, being a prominent violation, causing great suffering to soldiers and civilians, which later triggered the adoption of the 1925 Geneva Protocol which banned chemical weapons. The Armenian Genocide, in which the Ottoman government killed and expelled an estimated 1.5 million Armenians, was denounced as a crime against humanity, although there were no formal courts due to the lack of legal statutes at the time. In addition, there were reports of ill-treatment of prisoners of war, including poor conditions of detention and the practice of revenge, in violation of the Hague Regulations of 1907, although the legal framework was still weak.

World War II (1939–1945) saw more systematic and large-scale violations, especially by the Axis powers. The Holocaust was the pinnacle of transgression, with the Nazis killing an estimated 6 million Jews, as well as other groups such as Romani, disabled people, and political prisoners, through concentration camps, mass executions, and gaslighting. The Nuremberg Trials (1945–1946) defined crimes against humanity, including murder, slavery, and deportation, which became the basis for modern international courts. The bombing of civilian cities, such as Dresden by Britain and the US, as well as Hiroshima and Nagasaki by the US, has sparked a debate about proportionality, with some international legal experts considering it a violation of the principle of civil protection. The ill-treatment of prisoners of war, especially under Germany and Japan, included forced labor, medical experiments, and mass executions, which violated the 1929 Geneva Convention and formed the basis for the 1949 revision of the Geneva Convention. Mass deportations of civilians for forced labor, torture, rape, and the use of weapons such as firebombs are also substantial violations.

Violations of International Humanitarian Law during World Wars I and II demonstrate the fact of failure to protect victims of conflict and limit methods of warfare, characterized by the use of chemical weapons, genocide, cruel treatment of prisoners of war, and attacks on civilians. The ineffectiveness of the legal framework in World War I and the large-scale

systematic violations of World War II, such as the Holocaust and the bombing of civilian cities, underscore the need for the establishment of stronger and more binding international legal instruments. The impact of these violations led to the birth of the 1925 Geneva Protocol, the revision of the 1949 Geneva Conventions, and the establishment of international tribunals such as the Nuremberg Trials, which laid the foundation for the development of modern humanitarian law and a global accountability system to prevent similar atrocities in the future.

The International Community's Response to Violations of Humanitarian Law

After the end of World War II, the world witnessed the international community's resolute response to serious violations of international humanitarian law that occurred during the conflict. One of the monumental steps taken was the establishment of international courts, such as the International Military Tribunal at Nuremberg and the Tokyo Tribunal. These two courts set a precedent in upholding the principle of individual accountability for war crimes, crimes against humanity, and genocide. Through this judicial process, the international community affirms that no individual, not even the leader of a state, is above the law. This is an important milestone in the development of international criminal law and strengthens the accountability mechanism for gross violations of humanitarian law.

The traumatic experiences of World Wars I and II also encouraged the strengthening of the international humanitarian legal framework, which was realized through the development of the Geneva Conventions and its supplementary protocols. The Convention is the basis of international law that governs the protection of victims of armed conflict, including civilians, prisoners of war, and medical personnel, as well as setting boundaries in the methods and means of warfare. With this legal instrument, the international community seeks to prevent the recurrence of similar atrocities in the future and create universal standards that bind all parties to the conflict.

In addition, law enforcement and accountability for violations of humanitarian law have undergone significant developments, especially with the acceptance of the principle of individual criminal responsibility in international law. This principle then inspired the establishment of ad hoc tribunals for cases such as those in the former Yugoslavia and Rwanda, as well as the establishment of the International Criminal Court (ICC). Although the ICC was only established in the early 21st century, the basic principles used refer directly to the legal legacy of the Nuremberg trials, signaling continuity in international efforts to uphold justice for gross violations of humanitarian law.

The international response is also manifested through diplomatic pressure and the application of international sanctions against countries that are proven to have violated humanitarian law. Through UN Security Council resolutions, embargoes, travel restrictions, and asset freezes, the international community seeks to prevent impunity and provide a deterrent effect. However, the effectiveness of these measures is often hampered by global political dynamics, especially the veto power of permanent members of the Security Council, so consistency in the application of sanctions cannot always be guaranteed.

World Wars I and II also raised awareness of the importance of protecting humanity in armed conflict. International organizations such as the International Committee of the Red Cross (ICRC), along with various humanitarian agencies and human rights institutions, play a strategic role in advocating for compliance with international humanitarian law (HHI). Through campaigns, education, and monitoring, they seek to build a culture of respect for human dignity in conflict situations. The international community's response to violations of humanitarian law in the two world wars was not only reactive, but also proactive in creating legal and institutional systems aimed at preventing the recurrence of similar tragedies. This effort demonstrates a global commitment to upholding justice, protecting victims of conflict, and strengthening the rule of law in the international arena.

Impact on The Formation of International Legal Instruments

The international community's response to violations of humanitarian law that occurred during the World War had an impact on the development of international legal instruments, particularly in the realm of humanitarian law and human rights. One of the most obvious impacts was the development of the Geneva Convention of 1949. Based on the experience and inhumane treatment of prisoners of war, civilians, and victims injured in conflict, the international community is encouraged to revise and expand the pre-existing Geneva Conventions. The 1949 Geneva Convention was finally agreed upon as a more comprehensive legal instrument, covering protection for wounded and sick soldiers on the battlefield, prisoners of war, as well as civilians directly affected by armed conflict. The Convention was born out of the collective awareness of the international community to prevent similar atrocities from happening in the future and to build a humanitarian-based protection system.

As a continuation of the spirit of the Geneva Conventions, the international community again demonstrated its commitment by drafting an Additional Protocol in 1977. This protocol exists to provide further protection, especially in non-international armed conflicts that have become increasingly frequent after World War II. The 1977 Additional Protocol not only expanded the scope of protection for civilians, but also tightened restrictions on the methods and means of warfare that could be used by parties to the conflict. This reflects the evolution of international legal norms that are adaptive to the dynamics of modern conflict and reflects a growing awareness of the importance of humanitarian regulation in complex war situations.

Another very fundamental influence was the establishment of international tribunals after World War II, namely the International Military Tribunal at Nuremberg and the Tokyo Tribunal. These two tribunals not only became a direct response to war crimes and crimes against humanity, but also marked the beginning of a new era in international criminal law. Through the court, it is emphasized that individuals or countries can be held legally accountable for gross violations of humanitarian law. This principle later became the foundation in the establishment of other international courts, such as International Criminal Tribunal for the former Yugoslavia (ICTY), International Criminal Tribunal for Rwanda (ICTR), and the International Criminal Court (International Criminal Court/ICC). The existence of these judicial institutions strengthens the international legal architecture in enforcing accountability for international crimes, as well as ensuring that perpetrators of crimes do not go unpunished.

In addition to the establishment of the courts, another long-term impact of World War II was the establishment of the United Nations (UN) as the main international organization that played a role in maintaining world peace and security. The United Nations is the main forum for member states to formulate and adopt various international legal instruments related to armed conflict, human rights, and humanitarian law. The Atlantic Charter (1941), the United Nations Declaration (1942), and the Dumbarton Oaks Conference (1944), became important milestones in the establishment of a modern international legal system based on the values of peace, justice, and respect for human dignity. All of these legal instruments are a reflection of the international community's commitment to ensure that the humanitarian tragedies that occurred during the two world wars are not repeated, and become a key pillar in strengthening a just global legal system.

Conclusion

The violations of international humanitarian law that occurred during World Wars I and II have had a profound impact on the formation of international legal instruments. Atrocities such as genocide, the use of chemical weapons, and the inhumane treatment of civilians and prisoners of war exposed the weaknesses of the legal framework that existed at the time, thus encouraging the international community to develop a stronger and more universal legal system.

The response to these violations gave birth to legal instruments, such as the 1949 Geneva Convention, the 1977 Additional Protocol, as well as the establishment of international courts, including the Nuremberg Trials and the International Criminal Court (ICC). These developments not only strengthened international humanitarian law, but also influenced the formation of the human rights legal framework. Thus, the violation of humanitarian law in the World Wars became a turning point that reflected the world's commitment to protecting human dignity and upholding justice in situations of armed conflict.

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