

## The Legal Center for the International Committee of the Red Cross

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### Abstract

The lack of recognition of some countries and the parties to the conflict at the Legal Center of the International Committee of the Red Cross and the humanitarian principles on which the committee is based, it can be considered the most important obstacles facing the work of this organization as the most prominent international apparatus and the most important international humanitarian organizations related to the issues of protecting human lives during armed conflicts and cases of violence against them, despite the fact that this organization does its work with complete independence with the lack of bias to anyone. The parties to the conflict, and the issue of non-recognition of the legal center of the International Committee of the Red Cross is a very dangerous matter that may contribute to the complexity of the committee's work and the performance of its humanitarian tasks, and it may sometimes make its humanitarian work impossible.

**Keywords:** The International Committee of the Red Cross, Legal Center, International recognition, international humanitarian organization.

### Introduction

The International Committee of the Red Cross is a neutral, impartial, and independent organization with a purely humanitarian mission to protect the lives and dignity of victims of war and internal violence and to provide them with assistance. It leads and coordinates international relief operations conducted by the International Red Cross and Red Crescent Movement in times of conflict. The ICRC also works to alleviate suffering by promoting and reinforcing the rules of international humanitarian law (IHL) and universal humanitarian principles. The Committee was established in 1863 and gave rise to the broader Red Cross and Red Crescent Movement.

### Importance of the Research Topic:

The **Red Cross Movement**, founded by the **International Committee of the Red Cross (ICRC)**, represents a broad international activity. As a humanitarian movement with an international character, its establishment stemmed from a desire to provide aid to the wounded people in international and internal wars and armed conflicts, without discrimination based on gender, race, origin, or religion. This movement, established by the ICRC, exerts its utmost efforts on both international and national levels to prevent and alleviate human suffering wherever it exists. The Committee has striven to protect life and health, uphold human dignity, and promote mutual understanding, friendship, cooperation, and peace. The **fundamental principles** upon which the ICRC is based, endorsed by its 20th International Conference in 1965, make it a unique movement due to its humanitarian concerns for protecting humanity from all facing dangers and proposing realistic solutions to end the suffering humanity faces in some armed conflict areas. It is sufficient to highlight the importance of the ICRC by noting that it is the first independent international committee to focus on victims of international and non-international armed conflicts, making it unique, especially in the current period with the increase in international and non-international wars and

armed conflicts, there has been an urgent need to apply the rules of **International Humanitarian Law (IHL)**. Given that one of the primary concerns of the ICRC is the application of IHL during armed conflicts, the Committee's importance in contemporary international organization has become evident.

### Research Problem:

The fundamental principles upon which the International Committee of the Red Cross (ICRC) is based, and the objectives it strives to achieve, as outlined in its founding charter and statutes, are considered noble principles and objectives that the International Committee has sought to realize. If these were applied correctly, they would prevent much of the disasters and suffering that plague humanity as a whole. However, there are a number of obstacles that face and hinder the Committee's work from applying its noble fundamental objectives and principles. This problem lies in the lack of serious willingness on the part of some entities of public international law to cooperate with this Committee. This is evident through their failure to adopt and apply, in practice, the principles and objectives that the Committee seeks to achieve in reality. Some states experiencing internal armed conflicts have seen their governments deviate from applying the objectives and principles of the International Committee, which are precisely the principles of international humanitarian law affirmed by civilized nations. At times, and during armed conflicts, the governments themselves do not respect the rules of international humanitarian law and the objectives the International Committee has sought to achieve. We find that governments of states and other parties to the conflict violate these principles and objectives, causing immense human suffering. Therefore, there must be a legal guarantee that obliges state governments to apply and implement the rules of international humanitarian law affirmed by the International Committee. Merely concluding agreements with the Committee and recognizing it is not enough for the sound legal application of its principles and objectives; rather, it requires another internal procedure by the state that has concluded the agreement, which we will address later.

### Research Questions:

Based on the foregoing, several questions arise regarding the activities of the **International Committee of the Red Cross (ICRC)** and its legal status among states and other subjects of public international law, such as international, global, and regional organizations. This also extends to its legal status in the dissemination and application of international humanitarian law rules. We will attempt to answer these questions in this research. Among the important questions we can pose are:

- - Is the International Committee of the Red Cross considering a **subject of public international law**, and does it possess legal personality vis-à-vis other subjects of public international law?
- - Does the International Committee of the Red Cross have **legal enforcement power** to implement its objectives and fundamental principles in confronting states and other subjects of public international law?
- - Is this committee the **sole entity** that has contributed to the dissemination and proper application of international humanitarian law rules? Or have there been other international movements and organizations that have contributed to this role? And was the role of the International Committee of the Red Cross **effective** in this regard?

### Research Methodology:

This study will adopt an **analytical and descriptive research methodology**. This involves analyzing the legal rules and regulatory frameworks that govern the work of the **International Committee of the Red Cross (ICRC)**, as well as the most prominent international agreements that refer to the ICRC's work, are interested in its activities, and have included it within their international charters. Among these, the most notable are the **four Geneva Conventions of 1949** and their **two Additional Protocols of 1977**.

### Research Difficulties:

The most significant difficulty we faced in writing this research was the **scarcity of references that specifically addressed the International Committee of the Red Cross and its legal status**. Most writings and research have focused on the ICRC as a movement or an organization with a humanitarian character, whose primary goal is the protection of human beings and the fundamental principles of international humanitarian law. However, they generally do not delve into its legal status and the extent to which states are obligated to respect its fundamental principles.

### Research Plan:

The subject of this research necessitates its division into two main sections. In **Section One**, we will address the general concept of the International Committee of the Red Cross (ICRC) through two subsections. The first will define the Committee, and the second will explain its fundamental principles. In **Section Two**, we will explore the legal status of the International Committee of the Red Cross, also through two subsections. The first will discuss its legal standing in relation to states and other international organizations, while the second will examine the Committee's legal status in disseminating the rules of international humanitarian law and monitoring their application. Finally, the **Conclusion** will present the most important findings and recommendations reached through this study.

## First Chapter: Concept of the International Committee of the Red Cross

The **International Committee of the Red Cross (ICRC)** is considered the leading humanitarian organization in the field of humanitarian work. Since its inception, it has focused on caring for wounded and sick, combatants and prisoners, protecting civilians, and providing humanitarian assistance to victims of natural and political disasters. It carries out its work in light of a number of principles it has consistently respected in the field, they are **neutrality, independence, impartiality, humanity, volunteerism, unity, and universality**. It also always ensures it obtains the consent of the concerned state before undertaking humanitarian work on its territory. (1).

The establishment of the International Committee of the Red Cross is credited to the initiative of the Swiss citizen **John Henry Dunant**, who witnessed the **Battle of Solferino** in Italy, which erupted between the soldiers of Napoleon III of France and the armies of Maximilian of Austria in 1859. Through his book, Henry Dunant documented his observations about the battle and sought to find a solution to the suffering of the wounded in armed conflicts by proposing two suggestions:

- - Establishing a relief or aid society to assist military medical departments and teams during armed conflict.
- - Concluding an international convention recognizing the system of relief societies and their role.

This book marked the pinnacle of Henry Dunant's success, finding widespread resonance within a few months, especially in Geneva with **Gustave Moynier**, a lawyer and president of the Geneva Public Welfare Society. Moynier called for his society to convene in **1863** to discuss Dunant's proposals and translate them into reality. To achieve this, a committee of five people was established: **Gustave Moynier, Henry Dunant, General Dugour, Dr. Théodore Maunoir, and Dr. Louis Appia**. This five-person committee decided at its first meeting to continue its work as a permanent international committee named the **International Committee for Relief to the Wounded**.

, but these efforts did not stop Dunant from exerting more. His efforts culminated in an international conference attended by **16 countries on October 26, 1863**. This conference resulted in the **adoption of**

**the distinctive emblem, the red cross on a white background**, which is the reverse of the Swiss flag. Through this, the **Red Cross organization was founded**.

A new endeavor became necessary, with France taking the initiative to convene an international conference in Bern, Switzerland. The Swiss Confederation agreed to extend the invitation for the conference, which indeed took place in **1864**. Representatives from **twelve governments participated**, culminating in the signing of the **First Geneva Convention of 1864** concerning the Amelioration of the Condition of the Wounded in Armies in the Field. This convention contributed to formalizing the **protection of medical services in the field of combat** and gaining international recognition for the Red Cross and its ideals.

Furthermore, the results reached at the **1863 diplomatic conference**, aiming for the neutrality of health services, health transport, and health service personnel, were affirmed. Based on the decisions taken by the 1863 conference and the First Geneva Convention, the humanitarian organization gradually evolved to bear the name **International Committee of the Red Cross (ICRC)** since **1875**. From that year onwards, it has been working in the field of humanitarian action in a neutral manner, both during armed conflicts and in peacetime, within the framework of protecting victims of natural disasters.(2)

The principle guiding the committee is that even war has limits. This refers to restrictions on how to fight and on the conduct of combatants. The set of rules established based on this principle, and adopted by almost all nations, is known as **International Humanitarian Law (IHL)**. The **Geneva Conventions** form the primary pillar of this law.

Although the International Committee was founded on a private Swiss initiative, its work and scope of interests are international. The organization has missions and delegations in about **80 countries** worldwide, employing nearly **11,000 staff**, most of whom are citizens of the countries where they operate. These field missions may cover a single country or several countries in the case of regional missions. These missions carry out numerous activities according to the specific circumstances and needs of a particular country. These activities include:

- - **Protecting and assisting victims** of ongoing or emerging armed conflicts or violence (civilians deprived of their freedom, separated families, wounded and sick individuals).
- - **Preventative work and cooperation** with Red Cross and Red Crescent societies, coordinating humanitarian work and humanitarian diplomacy. The International Committee's work focuses on protecting and assisting victims of armed conflicts and internal disturbances, whether they are civilians or military personnel, on a strict basis of **neutrality and impartiality** (3).

After explaining the general concept of the International Committee of the Red Cross and its history, we will clarify the precise definition of this committee in the first section of this topic and discuss the fundamental principles upon which this committee is based in the second section.

### **First Section: Definition of the International Committee of the Red Cross**

According to some opinions, the International Committee of the Red Cross (ICRC) is **not considered a subject of international law** because it was not established by an international convention. Instead, it's regarded as a **non-governmental organization** that enjoys legal personality under Swiss civil law and is independent of the Swiss government. However, it has been entrusted with an **international role** by virtue of the four Geneva Conventions. For this reason, the international community, in October 1955, granted it

**observer status** in the United Nations organization as a neutral and independent institution, by a resolution unanimously approved by the United Nations General Assembly in its forty-fifth session.

The International Committee also has the **right to conclude headquarters agreements with states** to facilitate its work by granting it the immunities and privileges usually granted to intergovernmental organizations. In reality, the international legal status enjoyed by the International Committee makes it **more akin to intergovernmental organizations than to non-governmental organizations** (4).

The International Committee of the Red Cross (ICRC), founded in 1863, is considered the driving force behind the development of international humanitarian law (IHL). The ICRC initiated the process that led to the conclusion of the Geneva Conventions for the protection of war victims in 1864, 1906, 1929, and 1949. This committee was also behind the drafting of the Third Hague Convention of 1899 and the Tenth Hague Convention of 1907. Furthermore, the ICRC undertook an initiative to supplement the Geneva Conventions, which led to the adoption of the two Additional Protocols of 1977.

The ICRC has also encouraged the development of rules of international law and participated in negotiations on many other treaties, such as the 1980 Convention on Certain Conventional Weapons, the 1997 Ottawa Convention on the Prohibition of Anti-Personnel Mines, and the 1998 Statute of the International Criminal Court. Recognition of this role is reflected in the mandate entrusted to the ICRC by the international community to work for the faithful application of international humanitarian law applicable in armed conflicts, to understand the rules of this law applicable in armed conflicts, to disseminate knowledge of it, and to prepare any development of this law (5).

The International Committee of the Red Cross is widely renowned for its humanitarian operations due to its unique legal personality on the one hand, and on the other, in view of the lofty principles upon which its work is based: humanity, neutrality, independence, impartiality, unity, universality, and voluntary service, which have rightfully made it a pioneer and guardian of humanitarian action (6). Consequently, the ICRC is a (neutral, independent, and impartial humanitarian organization that has, from the outset, sought to achieve a dual objective: to provide relief to victims of armed conflict as a neutral and independent humanitarian organization, and to enhance efforts aimed at affirming and developing the laws and customs of war with the goal of strengthening the protection of persons not participating in hostilities or who have ceased to participate in them).

The ICRC also strives diligently to prevent suffering by disseminating and promoting the provisions of international humanitarian law and universal humanitarian principles. The establishment of the ICRC dates back to 1863, and it is the origin from which the Geneva Conventions and the International Red Cross and Red Crescent Movement emerged. It is responsible for guiding and coordinating the international activities carried out by the Movement in armed conflicts and other situations of violence. The ICRC is the founding body of the International Red Cross Movement (7).

Based on the foregoing, a precise and clear definition can be provided for the International Committee of the Red Cross (ICRC): It is **(a private, independent humanitarian organization that acts as a neutral intermediary in situations of conflict registered in accordance with the rules of international humanitarian law, which the ICRC works to disseminate)**. It provides protection and assistance to victims, whether they are prisoners of war, civilian detainees, wounded, sick, displaced, or people living under occupation. This is due to its right to take initiatives, a right recognized by states. It can also offer its services in cases not covered by the 1949 Geneva Conventions and their Additional Protocols. In this regard, it has organized a series of visits to political detainees in many countries (8).

We believe that a comprehensive definition of the International Committee of the Red Cross can be derived as **(a neutral, independent, non-governmental institution and the main and most prominent**



**body of the Red Cross movement or organization. It supports and disseminates the rules of international humanitarian law and ensures their application in international and non-international armed conflicts).** The Committee also seeks to spread the fundamental principles upon which the International Red Cross and Red Crescent Movement is based, which we will explain in the second section of this chapter.

## **Second Section: Fundamental Principles of the International Committee of the Red Cross**

For fulfilling its mission and achieve its objectives, the International Committee of the Red Cross (ICRC) operates on **seven principles** that represent the principles of the International Red Cross and Red Crescent Movement. These are **(Humanity, Impartiality, Neutrality, Independence, Voluntary Service, Unity, and Universality)**.

To fully understand the principles upon which the ICRC is based, it's worth noting that these seven principles have gone through several historical stages to reach the form we know today. Gustave Moynier, back in **1875**, spoke about **four fundamental principles** that the work of the Movement's societies should adhere to. These principles were:

**A- Principle of Cooperation:** This requires preparation during peacetime for relief work in case of war.

**B- Principle of Solidarity:** This expresses the commitment of societies to establish mutual ties among themselves.

**C- Principle of Centralization:** This means the existence of a single society in each country exercising its specialization over the entire national territory.

**d. Principle of Exchange:** This means the readiness to relieve all wounded or sick, without distinction based on their nationality.

However, these principles were later abandoned in favor of **four core principles**:

### **(Impartiality, Independence, Universality, and Equality)**

This change occurred with the adoption of the first official text on the fundamental principles in **1921**, during the revision of the International Committee's Statute. These principles were re-emphasized at the International Red Cross Conference held in **1925**, and again at the same conference in **1952**. In **1955**, these principles were formally codified after a study conducted by Jean Pictet, who outlined all the principles that guide the International Movement in its work (9).

We'll now discuss in some detail the principles upon which the Red Cross Movement is founded, as approved by its 20th International Conference in 1965. These are as follows:

#### **1. Humanity**

The Red Cross is a **humanitarian movement** with an international character, born from the desire to assist the wounded in war without distinction based on gender, race, origin, or religion. This Movement strives, both internationally and nationally, to exert the utmost effort to **prevent and alleviate human suffering** wherever it is found. It also aims to protect life and health, uphold human dignity, and promote mutual understanding, friendship, cooperation, and lasting peace among all peoples.

#### **2. Impartiality**

The Red Cross Movement does **not discriminate** among individuals based on race, nationality, religion, political beliefs, or social status. Its objective is to alleviate suffering, prioritizing the most urgent cases.

#### **3. Neutrality**

To ensure that the Movement retains the **trust of all**, it maintains neutrality in armed conflicts and must not at any time participate in controversies of a political, racial, religious, or ideological nature.

#### 4. Independence:

The Red Cross is an independent organization. Although it acts as an auxiliary to public authorities in its humanitarian activities and is subject to the laws of its country, it is obligated to maintain its independence so that it can operate according to Red Cross principles in all circumstances.

#### 5. Voluntary Service:

The Red Cross is a voluntary relief organization that does not work for any self-interest and does not seek profit.

#### 6. Unity:

In every country, there can only be one Red Cross-national society, and its services must be available to all and cover all parts of the country.

#### 7. Universality:

The Red Cross is a global organization in which all national societies enjoy the same rights and are bound by the same duties and responsibilities based on mutual cooperation among themselves (10).

Furthermore, the Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief, adopted by the Red Cross Movement in 1993, detailed these principles. This Code of Conduct includes principles such as the necessity of not using aid to strengthen a specific political or religious party. Organizations must also pledge to strive not to be a tool directed by government foreign policy. They must also commit to ensuring their disaster response aligns with local capabilities and pledge to find ways to enable beneficiaries of their programs to assist in the management of relief aid. Additionally, their efforts should focus on alleviating the vulnerability of communities and their exposure to future disasters, as well as striving to meet their basic needs. They must also consider themselves accountable to those they are trying to help and to those who provide them with resources. Moreover, through its information, media, and promotional activities, the committee must view disaster victims as people with dignity and not portray them as hopeless individuals (11).

It must be said that these principles have not fundamentally changed in content since Henry Dunant published his influential book on the battlefield of Solferino and the Committee of Five recommended to the Swiss Federal Government to convene the First Geneva Conference. The last four principles highlight the organizational nature adopted by the Red Cross: it is an institution primarily social in character, maintaining its independence from any government authority, not seeking any profit, allowed to have only one society in each country, extending to cover the entire world, and ensuring full equality of rights for representatives of all countries when its delegates meet.

The first three principles collectively form the starting point for all Red Cross work. It is absolutely not concerned with determining which party to a conflict is right or wrong, or which is the aggressor and which is the victim of aggression. These difficult-to-resolve issues should be discussed by competent bodies such as the Security Council or the United Nations General Assembly. The Committee, in all circumstances, looks at the human being in need of aid (12).

Therefore, the **fundamental principles** upon which the International Committee of the Red Cross (ICRC) was founded represent the **constitution for the work of the International Red Cross and Red Crescent Movement**. The ICRC has consistently strived to apply these principles to all parties in a conflict, including **combatants** and **civilians**, during both international and non-international **armed operations**.

## Second Chapter: The Legal Status of the International Committee of the Red Cross

Some international legal scholars believe that the **International Committee of the Red Cross (ICRC)** possesses **international legal personality**. This view is based on the advisory opinion issued by the **International Court of Justice (ICJ)** on April 11, 1949, concerning reparations for injuries incurred by staff and employees during and as a result of service to the United Nations. This opinion made the recognition of international legal personality conditional on two requirements:

**1- First one, enjoying rights** that states are obligated to respect.

**2- Second one, the ability to claim the benefits** granted by these rights or bear the burdens of international responsibility for violating the provisions of international law.

There is no doubt that the ICRC enjoys numerous rights that states are obligated to respect, which are rooted in international agreements. Furthermore, the ICRC has the ability to use means governed by international law to claim the benefits arising from the rights it possesses. Although the ICRC cannot, in principle, resort to the International Court of Justice, it possesses many means to assert its rights. These means include:

- **Negotiation**, resorting to **public opinion**, Appealing to **States Parties** to the Geneva Conventions, resorting to the **International Conference of the Red Cross and Red Crescent** and Finally, resorting to **arbitration** (13).

The legal basis and source for the work of the International Committee of the Red Cross (ICRC) are stipulated in the provisions of **treaty international humanitarian law**, **state practices**, and the **Statutes of the Movement**, all of which constitute binding legal sources.

The provisions of treaty international humanitarian law state that:

"The Parties of the conflict shall grant to the International Committee of the Red Cross all facilities within their power to enable it to carry out the **humanitarian functions assigned to it by these Conventions and this Protocol**, including acting as a substitute for or complement to the procedures of the protecting powers of the states, visiting prisoners of war and other protected persons, operating the central agency of searching for missing people, providing humanitarian assistance, fulfilling the specific mission of the ICRC with regard to international humanitarian law, and exercising the general right of humanitarian initiative." (14).

The ability of individuals, states, and international organizations to assert **legal rights** and bear **legal responsibilities** depends on how the law recognizes these entities. This recognition is known as **legal personality**. Historically, and until now, **states** have been the traditionally recognized entities in international law.

Regarding organizations, their recognition in international law stems from their connection to governmental structures. On the other hand, organizations that are not composed of states or do not have a link to governmental structures—i.e., non-governmental organizations (NGOs)—do not possess international legal personality, despite their international scope of work. International legal personality refers to "the capacity of the entity concerned with its administration to bear the rights and obligations established or imposed by international law." It also means, from another perspective, "the ability of this entity to contribute to establishing the rules of international law" (15).

Consequently, the legal basis for the International Committee of the Red Cross (ICRC)'s work in international humanitarian law carries greater weight in conflicts between states than in internal armed conflicts, where sovereignty is a paramount concern. Furthermore, states that have ratified relevant legal charters are obligated in international conflicts to allow the ICRC to visit persons detained for conflict-



related reasons, such as prisoners of war. In such cases, negotiations are necessary to reach agreements, which are often temporary and subject to termination at any time. States do not agree to such agreements or others unless they are assured that the ICRC will not disseminate information it obtains in the course of its humanitarian activities (16).

Now that we've clarified the concept of the legal status of the International Committee of the Red Cross (ICRC), we'll divide this section into two branches. In the first branch, we'll discuss the **ICRC's legal status in relation to states and international organizations**. In the second branch, we'll delve into the **ICRC's legal status in disseminating the rules of international humanitarian law and overseeing their application**.

### **First Section: The Legal Status of the Committee in Relation to States and International Organizations**

Among the fundamental roles indicated in **Article (5) of the Statutes of the International Red Cross and Red Crescent Movement** is the ability of the International Committee to take any humanitarian initiative within its scope as a specifically **neutral and independent institution and mediator**. By virtue of the **Geneva Conventions and their Additional Two Protocols**, it has the right to initiate and offer mediation to parties in conflict, and to call upon warring parties to respect international treaties and ensure their commitment.

The International Committee maintains close relations with other components of the Movement, cooperating with National Societies in areas of common importance, such as preparing them for work in armed conflict situations, respecting, developing, and ratifying the Geneva Conventions, disseminating the fundamental principles of International Humanitarian Law, and other roles carried out by the International Committee. It also maintains close relations with the International Federation and cooperates with it in areas of common importance in accordance with the Movement's Statutes.

In addition to this, the International Committee establishes relations with **governmental authorities and all national or international institutions** with which it sees a benefit in cooperation. It maintains regular relations with the **European Union, the Organization for Security and Co-operation in Europe, the African Union, the Organization of Islamic Cooperation, the Non-Aligned Movement, the Organization of American States, the League of Arab States, and the Inter-Parliamentary Union** (17).

Some jurists classify the **International Committee of the Red Cross (ICRC)** as a **non-governmental organization (NGO)**. They base this on the fact that the ICRC was not established by an international agreement and does not include states as members.

However, another legal opinion suggests that, despite the ICRC not being an organization that accepts states as members, it enjoys a status comparable to that of **intergovernmental organizations (IGOs)** rather than NGOs. They believe the ICRC's unique, hybrid status is evident in several key aspects, most notably the **treatment it receives from states and the legal basis for its work**, as well as its status as a **permanent observer at the United Nations**.

Many states interact with the ICRC in the same way they deal with intergovernmental organizations. States communicate with the ICRC through **diplomatic channels**, specifically via their **Ministries of Foreign Affairs** for its missions around the world, and through **permanent state missions to the European Office of the United Nations and international organizations in Geneva** for communication with its headquarters in Geneva.

Unlike all non-governmental organizations, and consistent with governmental organizations, the ICRC finds the legal basis for its work in an **international mandate** under the **1949 Geneva Conventions and**

**their 1977 Two Additional Protocols.** Consequently, the ICRC is considered a **unique institution** that possesses **international legal personality** and a **special status in international law**.<sup>(18)</sup>

The **International Committee of the Red Cross (ICRC)**, as we've explained, holds a **unique legal status and position**. It's a neutral, impartial, and independent international non-governmental organization. Initially, it was formed as a private association under Swiss civil law, so its existence wasn't a result of governmental authorization. Nevertheless, its functions and activities, primarily providing **protection and assistance to victims of armed conflicts**, have been mandated by international protection through the **four Geneva Conventions and their Two Additional Protocols**. These collectively form the basis of **international humanitarian law (IHL)**, which are among the most widely ratified treaties globally.

Because of this special status, it can be argued that the ICRC possesses **international legal personality** akin to intergovernmental organizations, despite being an NGO. Several factors have contributed to this standing, including how many states treat the ICRC as they would intergovernmental organizations. The ICRC maintains **diplomatic relations with states and international organizations**, engaging with them at a coordination level rather than one of subordination. dependency

Even though it's considered an international non-governmental organization, it's also among those addressed by the provisions of international law. This is evident in the behavior of states when drafting and formulating international humanitarian law. In fact, the ICRC is largely credited with the development of the **four Geneva Conventions of 1949 and their two Additional Protocols of 1977**.<sup>(19)</sup>

The **International Committee of the Red Cross (ICRC)** maintains relationships with countries through coordination with **National Societies** from (178) countries. This Committee, its International Federation, and the International Red Cross and Red Crescent Movement all share the same fundamental principles within the Movement, but they are not linked by a hierarchical structure. In situations of armed conflict, the ICRC takes on a **leading role** and directs the work of its partners.

These National Societies are independent organizations in their respective countries, working with professional staff and trained volunteers. They carry out their humanitarian activities according to local needs and in line with their own statutes, and they are subject to national law. When a conflict arises, the ICRC and the National Society agree on procedures for working together as much as possible to assist victims. In accordance with the **Seville Agreement of 1997**, the ICRC assumes primary responsibility in conflict zones.

Regarding the recognition of new National Societies, this falls under the purview of the ICRC. It verifies that all National Societies meet certain conditions. After the Committee recognizes these societies, it does not have direct authority over them. These societies also provide support for the ICRC's work for conflict victims. This support can be in the form of funding or staffing. Additionally, societies with the capacity contribute to the development of those societies that need such assistance, aiming to strengthen the Movement as a whole <sup>(20)</sup>.

We believe that the **United Nations General Assembly Resolution 1990**, which granted the **International Committee of the Red Cross (ICRC)** observer status due to its special role and specific mandates under the **Geneva Conventions of August 12, 1949**, represents the highest degree of recognition by states of this Committee and its humanitarian work. This resolution also clarifies the Committee's relationship and its legal standing concerning states and international organizations.

## Second Section: The Legal Status of the International Committee in Disseminating International Humanitarian Law and Monitoring Its Application

Among the roles undertaken by the International Committee of the Red Cross (ICRC), as stipulated in Article 5 of the Statute of the International Red Cross and Red Crescent Movement, is its role in carrying out the tasks entrusted to it by the Geneva Conventions. This includes working towards the precise application of the principles of **International Humanitarian Law (IHL)** applicable in armed conflicts and receiving complaints regarding any alleged breaches of this law. Another role of the ICRC is to disseminate IHL applicable in armed conflicts and to prepare necessary improvements for its development (21).

The numerous responsibilities and competencies undertaken by the ICRC make it an organization with a very special **legal status**. Although it is, in fact, a private non-governmental body, the tasks entrusted to it by international law have granted it an international character, leading to the recognition of it as an **international legal personality**. In 1990, the United Nations General Assembly granted the ICRC "**Observer**" status, as previously mentioned in this research.

The ICRC has concluded **headquarters agreements** with many countries where it operates, granting it numerous immunities and privileges. This has made it closely resemble intergovernmental international organizations. The many tasks and privileges granted to the ICRC were given to enable it to play its effective role in applying and enforcing the provisions and rules of IHL during both international and non-international armed conflicts. This is in addition to its strong commitment to ensuring the promotion of fundamental **human rights** guaranteed by most international charters, such as the United Nations Charter of 1945, the Universal Declaration of Human Rights of 1948, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights of 1966, and the International Covenant on Economic, Social and Cultural Rights of 1966 (22).

For any humanitarian body to undertake humanitarian activities or any other work, whether in peacetime or during armed conflict, there must be a legal provision or a statute that permits such actions. What is meant by the **legal status of the Committee** in the field of disseminating **International Humanitarian Law (IHL)** is precisely that it is stipulated in the **four Geneva Conventions of 1949 and their two Additional Protocols of 1977**. These texts contain legal provisions that authorize the Committee to carry out certain humanitarian activities, among which is the dissemination of IHL (23). The International Committee of the Red Cross (ICRC) has always strived to develop and apply IHL, working to facilitate its understanding and spread knowledge of it (24).

The 1949 Geneva Conventions did not explicitly obligate national societies in states to disseminate these rules. However, recognizing their vital role in implementing the humanitarian rules contained within these conventions, they, for the first time, stipulated the role of national societies in assisting war victims. This was further reinforced by the two Additional Protocols of 1977 and Resolution No. (21) concerning the dissemination of international humanitarian law applicable in armed conflicts, issued by the Diplomatic Conference for the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, held in Geneva from 1974-1977.

Consequently, national societies are responsible for disseminating the provisions of these instruments to enable them to fulfill their required role through the humanitarian activities they undertake. They bear a special responsibility that necessitates introducing protection and providing assistance, and dealing with national authorities. The latter play an important role in the national dissemination program by cooperating with national authorities, reminding them of their duty to disseminate international humanitarian law. National societies are responsible for urging their governments to incorporate the basic rules of the Geneva Conventions into instructions for officers, ranks, civilian administration personnel, higher education institutions, doctors, and medical assistants. They also intensify their efforts to disseminate knowledge of

this law as widely as possible among relevant authorities and ministries. Additionally, national societies contribute to dissemination programs implemented by national authorities by participating in the development of these programs, providing necessary dissemination materials, and supplying qualified expertise to implement these programs (25).

The Committee also plays a vital role in working to apply international humanitarian law through its **field visits to sites of incidents** where violations of this law may occur, and works to address them whether these visits can be initiated either based on a **complaint from stakeholders** or on a **voluntary initiative by the relevant state authorities**. Most often, the Committee's visits to remove violations are conducted **secretly** to ensure the success of its efforts in verifying complaints and stopping violations. However, it may resort to **publicity** if its efforts are unsuccessful or if its representatives do not receive the necessary cooperation. This is done through **published reports** that expose these violations, making the authorities of that state subject to attack from international organizations, especially those concerned with human rights. Undoubtedly, the Committee has a vital role in implementing international humanitarian law during peacetime, in addition to holding **training programs and seminars** to raise awareness of the provisions of this law (26).

We believe that one of the prominent roles of the **International Committee of the Red Cross (ICRC)**, and one of the goals it has adopted, is its crucial role in disseminating and applying the rules and provisions of **International Humanitarian Law (IHL)**. The ICRC's interest in this law and its tireless efforts to implement its rules stem from the fact that IHL is the foundation upon which the Committee relies to carry out its fundamental principles when dealing with situations it faces during international and non-international conflicts. The ICRC is one of the first international committees and organizations that sought to apply and implement the rules and provisions of International Humanitarian Law in armed conflicts to protect civilians or combatants who are no longer able to fight and carry weapons (the wounded and prisoners) from the ravages of these armed conflicts.

## Conclusion

After God Almighty made it easy for us to conclude the explanation of the topic and concept of the legal status of the **International Committee of the Red Cross (ICRC)** and the fundamental principles upon which this committee is based, which are precisely the principles of international humanitarian law, and the committee's vital role in applying and disseminating the rules of international humanitarian law, which is the primary goal the committee seeks, especially in areas experiencing armed conflicts.

Since its establishment in 1863, the committee has sought to alleviate human suffering during international and non-international wars and armed conflicts. Its efforts have been fruitful, and it has succeeded in applying its principles, which are distinct from those on which other international organizations and movements are based. The reason for the committee's distinctiveness lies in the international nature of the principles and objectives it adopted, and the purpose for which it was created. Today, we can hardly find any country whose territory is devoid of the committee's headquarters, as it concludes headquarters agreements with the states where it operates. Due to its extensive humanitarian role, most states and other international organizations have recognized it, as the committee accomplishes what even states are unable to do.

Through our study of the International Committee of the Red Cross, we have reached a set of **results and recommendations** related to the research topic, as follows:

**First: The results are summarized as follows:**

**1- The International Committee of the Red Cross (ICRC)** is an independent, neutral, non-governmental international committee that seeks to apply and implement the rules of International Humanitarian Law and disseminate them in all countries of the world.

**2- Some countries have adopted the rules of International Humanitarian Law**, rules that the ICRC has long sought to have respected and observed by parties to international and non-international armed conflicts. We observe that some states have enacted laws addressing this matter. Among these countries is **Iraq**, which adopted Law No. (55) of 2008, incorporating the principles adopted by the ICRC. This was done through Iraq's accession to the agreement establishing the Islamic Committee of the Red Crescent, and what this committee aims to achieve in alleviating human suffering and the impact of disasters during peacetime, advocating for kindness towards people during armed conflicts and wars, and providing assistance to their victims, as stated in the explanatory memorandum of the aforementioned law.

**3- The dissemination and application of International Humanitarian Law rules** can only be achieved through national societies in countries, as well as independent institutions and organizations that have no political agenda. Consequently, the ICRC can achieve its objectives through these societies and institutions, and also through the fundamental principles it has adopted, including **(independence, neutrality, and impartiality)**. These principles are crucial for achieving the committee's desired goal, which is the proper application of International Humanitarian Law.

**4- Granting the ICRC observer status in the United Nations Organization** is nothing but evidence of the recognition by this organization and its member states of the important role the committee has played in monitoring violations affecting humanity as a result of international and non-international wars and armed conflicts.

## **Second: Recommendations**

Through this advanced research and the problems discussed in its introduction that faced the work of the International Committee of the Red Cross, we have arrived at a set of recommendations that can contribute, even in a small way, to solving some of these problems, as follows:

**1- Persistent efforts by international law entities**, including organizations and states, to disseminate the rules of International Humanitarian Law (IHL) and raise awareness about it among their citizens. Applying this law helps alleviate human suffering; the more aware governments and peoples are of its rules, the fewer violations and less suffering civilians will endure, whether during war or peace.

**2- Striving to enact domestic laws by states that have recognized the International Red Cross and Red Crescent Movement.** These laws should focus on upholding, recognizing, and ensuring the respect and application of the fundamental principles of International Humanitarian Law and the International Committee of the Red Cross by all state authorities and institutions. Governments' and states' commitment to enacting such laws demonstrates their dedication for protecting humanity and human rights. It's also crucial to have punitive legislation to prevent any violation of the fundamental principles upon which International Humanitarian Law is based and which the International Committee of the Red Cross has adopted.

**3- Issuing laws and directives by state governments** aimed at facilitating the work of the International Committee of the Red Cross in countries where the Committee has headquarters. Sometimes, the headquarters agreement concluded between the Committee and the host states is not sufficient on its own for the Committee to carry out its tasks and achieve its objectives. Therefore, it's essential to issue laws aimed at facilitating the Committee's field work and removing obstacles it faces on the ground that impede it from achieving its humanitarian objectives.



## Footnotes

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