

**Адель Хамза Отман**

*Кафедра права  
Коледж Університета Аль-Фарабі  
Багдад, Республіка Ірак*

## **РОЛЬ МІЖНАРОДНОГО КОМІТЕТУ ЧЕРВОНОГО ХРЕСТА У ВИРІШЕННІ МІЖНАРОДНИХ КОНФЛІКТІВ**

**Анотація.** *Актуальність досліджуваної проблеми полягає у наявності збройних конфліктів на міжнародній арені та наявності різноманітної кількості способів їх регулювання. Основною метою цього дослідження є визначення основних положень міжнародного права, що застосовуються у міжнародних конфліктах, через призму ролі Комітету Червоного Хреста у його розвитку. Це дослідження охоплює та ретельно аналізує історію та основну мету зародження організації. Крім того, дослідження передбачає поглиблене вивчення основних завдань та принципів діяльності Комітету. В результаті дослідження будуть чітко визначені існуючі теорії участі та впливу Комітету у міжнародних правовідносинах, а також ті теорії, які виникли завдяки інноваціям у правовому мисленні і здатні охопити специфічні риси практики та ефективність цієї неурядової організації. Крім того, означені актуальні проблеми існування цієї організації, її актуальність у сучасному світі та сили підтримки світового суспільства. Серед успіхів наукового аналізу ролі Міжнародного комітету Червоного Хреста у розвитку міжнародного гуманітарного права, що застосовується у міжнародних конфліктах, – аргументовані гіпотези та підтверджені заяви про важливість Комітету, які описуються особливостями: сучасність, актуальність та відповідність інформаційно-технологічному розвитку суспільних відносин учасників здорових міжнародних відносин, їх прихильників та опонентів. Це також включає систематизацію наукових досліджень, їх аналіз та розумне спростування. Подорож в історію виникнення міжнародних конфліктів, їх модифікація відповідно до розвитку суспільних відносин, а також процесів глобалізації стане предметом порівняльного аналізу, спрямованого на виявлення нових методів та способів їх уникнення*

**Ключові слова:** *гуманітарне право, міжнародний конфлікт, військовий конфлікт, тема, Червоний Півмісяць*

**Adel Hamzah Othman**

*Department of Law  
Al Farabi University College  
Baghdad, Republic of Iraq*

## **THE ROLE OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS IN RESOLVING INTERNATIONAL CONFLICTS**

**Abstract.** *The relevance of the problem under study lies in the presence of armed conflicts in the international arena and the presence of a diverse abundance of ways to regulate them. The main purpose of this study is to identify the main provisions of international law applicable in international conflicts through the lens of the role of the Committee of the Red Cross in its development. This study covers and thoroughly analyses the history and the main purpose of the origin of the organisation. Furthermore, the study engages in an in-depth examination of the basic tasks and principles of the Committee's activities. As a result of the study, the existing theories of the participation and influence of the Committee in international legal relations will be clearly identified, as well as those theories that have emerged due to innovations in legal thinking and are capable of covering the specific features of the practice and effectiveness of this non-governmental organisation. In addition, the designation of the actual problems of the existence of this organisation, its relevance in the modern world, and the strength of the support of the world society. Among the successes of the scientific analysis of the role of the International Committee of the Red Cross in the development of international humanitarian law applicable in international conflicts is the reasoned hypotheses and confirmed statements of the importance of the Committee, which are described by the features of modernity, relevance, and compliance with the information and technological development of social relations of participants in healthy international relations, their supporters and opponents. This also includes the systematisation of scientific research, their analysis and reasonable refutation. A journey into the history of the emergence of international conflicts, their modification according to the development of social relations, as well as the processes of globalisation, will be the subject of comparative analysis aimed at identifying new methods and ways to avoid them*

**Keywords:** *humanitarian law, international conflict, a military conflict, the subject, the Red Crescent*

### **INTRODUCTION**

Thus, the subjects of international law can be considered participants in international relations who have the rights and obligations that they exercise based on international law and, if necessary, bear international legal responsibility. This study is not limited to the classical views and legal statements of researchers of legal science, it is also based on the causes and prejudices of various international conflicts of peoples, organisations, nations, castes, etc. A glimpse at the evolution of conflicts in recent years proves that there is currently a change in the actual nature of conflicts in general and internal conflicts in particular [1-3]. Such conflicts in their current form are different from the national liberation wars of the second half of the 20<sup>th</sup> century. Today's conflicts take place against the background of a crisis in the legitimacy of the state. They are distinguished by a wide variety of opposing sides and motivations of the struggle, among which are opposition to the government, the desire to achieve the right to land, access to natural resources, resistance to the oppression of certain ethnic groups or indigenous populations, etc. After all, at present, the central government can be simultaneously opposed by several opposition groups, each of which has its set of goals and methods of combating. This is also facilitated by the increasing duration of conflicts, where the number of opposing groups is growing, and numerous gaps appear in the hierarchical structure of the movement's leadership, arising from ethnic or other reasons that have no place in modern international law. Unfortunately, over time, what started as a politically motivated movement degenerates into robbery and anarchy. What is called civil society can provide clues to the nature of an armed conflict, influence its outcome, and deal with its consequences. Different reasons and pretexts exist in this regard, which in turn give rise to different means, methods, as well as authorised subjects for their solution [4; 5].

International humanitarian law is generally one of the most relevant and problematic aspects of international law in the international arena. The logical explanation for this is that there are military clashes and conflicts that exist in the modern world. Despite the considerable progress made by modern international law in regulating the use of force in international relations, armed conflicts remain a daily reality even after the adoption of the UN Charter. The nature of armed conflicts has changed over time. At present, a considerable decrease in the number of classic inter-state wars can be observed, but more often and violent are those armed conflicts where the state (or states) are opposed by non-state armed groups, as well as situations where such groups are at war with each other. The conduct of armed conflicts remains an important area of human activity,

and as such requires organisation and appropriate settlement by legal means [6; 7]. The nature of the legal regulation of armed conflicts is determined by humane values that are common to all humankind and do not depend on considerations of cultural relativism. Experience also illustrates that, compared to previous decades, the number of direct losses in current conflicts is generally lower, but indirect losses are very high. Current conflicts generally last longer, and during the long transition period to peace, there is little concerted effort to address the underlying causes of the conflict, which in many cases makes it possible to resume hostilities [1]. In recent decades, both the nature of the conflict and the relevant activities at the interstate and international levels have changed; views on how a military instrument can be used for political purposes have also changed. Notably, however, there is a change in the nature of peacekeeping operations, including: expanding the activities that are carried out in missions; increasing readiness for the use of force; readiness to provide the United Nations with opportunities to intervene in the affairs of a state with a higher element of risk than in previous UN missions; readiness to intervene in some cases without the consent of the warring parties. The shifting of roles and responsibilities between the civilians and the military has become an important factor for peacekeeping operations. One of these special subjects of international law is the International Committee of the Red Cross (hereinafter referred to as “the Committee”).

The Committee is one of the components of the International Red Cross and Red Crescent Movement. The International Red Cross and Red Crescent Movement is also called the International Red Cross. This movement includes: National Red Cross and Red Crescent Societies (National Societies), the International Committee of the Red Cross (International Committee or ICRC), and the International Federation of Red Cross and Red Crescent Societies. Notably, the International Committee of the Red Cross is a neutral, impartial and independent humanitarian organisation. It was created more than 130 years ago. The active participation of the ICRC in international humanitarian activities in the process of progressive development of international humanitarian law, as well as the conclusion of transactions with states – all this indicates that the ICRC is becoming an organisation that has the attributes of an international intergovernmental organisation [8]. Indeed, according to the will of states, the treaty sources of international humanitarian law record a number of powers of the ICRC in the field of promoting the implementation and dissemination of international humanitarian law, monitoring its compliance, and taking part in international humanitarian activities, which it can exercise independently or on behalf of states.

The activities of the International Organisation of the Red Cross are very influential in the entire humanitarian sphere and in the field of contract law. However, its contribution in times of conflict is invaluable. That is why all of the above necessitates the scientific research on the role of the International Committee of the Red Cross in armed conflicts, and is the main purpose of this study.

## **1. MATERIALS AND METHODS**

The methodology of this study constitutes a multi-level system, which includes principles, approaches, and methods that combine the tools of the classical (principles of development, interrelation of phenomena, consistency, determinism) and non-classical (the principle of pluralism, tolerance, complementarity) methodology. In accordance with the latter, the axiological, anthropological, comparative, systemic, and functional approaches were used, and they are the main ones in scientific cognition. In terms of legal methods, the dialectical method is interpreted as a constitutive one, being applied in the course of the entire scientific research and serving as the initial method in all the constituent parts of the scientific article. In particular, the dialectical method was used in the process of defining the category of international humanitarian law, designating the original sources of the non-governmental organisation of the Red Cross and the Committee as its component in the context of a historical journey. The study used the method of rising from the abstract to the concrete to identify the prerequisites of international conflicts and methods of their solution. Theoretical analysis was used in the process of determining the nature of the Committee of the Red Cross, its goals, tasks, objectives, principles of activity and the concept of modern development.

In addition, in the course of the study, a full-fledged block of logical methods was applied, including classification, extrapolation, induction and deduction, analogy, abstraction, comparison. Notably, the method of analogy and the method of comparison are key methods in the research process, due to detailed cognition of the subject of this study by analysing various statements, opinions, and worldviews of political giants and leaders of the world community, which translate into the adopted regulations and means of their implementation in the world. In addition to the above, the comparative legal method was actively used during the study of the role of the Committee of the Red Cross in international humanitarian law, by comparing and comparing all kinds of ideologies, views and worldviews, as well as outlining the values of the existence of contract law and the importance of its provisions. The structural-functional method was used to display the structural foundations of contract law and its legal force in the activities of international law organisations. In

turn, the hermeneutical method was used to interpret the essence and content of the main definitions that describe the level of conflict in international relations, their conversion and the risks of occurrence. The historical legal method was used during the study of historical stages, as well as the study of the establishment and development of the Red Cross organisation and its components. The use of the method of normative and dogmatic analysis made it possible to interpret the legal texts of international treaties, resolutions of international organisations, national legislation of states and constituent documents of the ICRC and the Movement, as well as materials reflecting the process of their development and practice of application, decisions of international judicial bodies, etc.

The theoretical basis of this study includes the scientific articles of scientists on the role of the Committee of the Red Cross in international humanitarian law, used in the process of regulating international conflicts, including the consequences of militant and non-peaceful protests.

## 2. RESULTS AND DISCUSSION

The legal rules governing the conduct of war are as ancient as the war itself. The relevant customs can be found in all regions of the world, in particular in Asia, Africa, America, and Europe; therefore, the provisions of international humanitarian law, most of which are not universal in the way they arise, are universal in nature, since their foundations are contained in most non-European systems of thought. However, despite their origin, these ancient customs had a substantial drawback: their application was limited to specific regions and very often to a specific war [9]. At present, the essence of international humanitarian law is to ensure the protection of war victims. Any actions, qualifications, principles, provisions of international humanitarian law must be interpreted exclusively through this imperative of international humanitarian law. The attempt to use the norms and provisions of international humanitarian law for other purposes is insignificant and illegal, and contradicts its main purpose. There are often attempts to make the qualification of an armed conflict self-sufficient, to translate the qualification of an armed conflict within the framework of international humanitarian law into a political and legal plane. The qualification of an armed conflict within the framework of international humanitarian law is necessary to the extent that it ensures the achievement of its main goal – the protection of the victims of war. In some cases, to effectively protect the victims of war, it is advisable to limit the statement of the fact of the existence of an armed conflict and apply the maximum possible scope of international humanitarian law in this particular situation. Thus, analysing its main essence, one can conclude that the main task of international humanitarian law is to ensure the maximum possible protection during an armed conflict for all persons who are not fighting or have stopped fighting for various reasons.

International humanitarian law was created based on three main aspects. These are the “Geneva Law”, represented by international conventions and protocols adopted under the auspices of the International Committee of the Red Cross, the main purpose of which is to protect the victims of conflict; the “Hague Law”, based on the results of peace conferences held in the Dutch capital in 1899 and 1907, where the permissible means and methods of warfare were mainly discussed; the efforts of the United Nations to ensure respect for human rights during armed conflicts and to restrict the use of specific weapons. Various international organisations with different legal status play a considerable role in protecting the victims of war and overcoming the humanitarian consequences of armed conflicts [10-14]. They are united by the right to humanitarian access, a right that depends on the status and mandate of the organisation, as well as the relevant rules of international humanitarian law. Among these organisations, there are intergovernmental organisations that act in accordance with their charter and the mission-specific mandate, which determine the status of these missions and delegations. In times of armed conflict, these organisations interact with each other based on a cluster approach, according to which each of them specialises in a particular area of humanitarian action. The second group comprises non-governmental organisations that form the part of the International Red Cross and Red Crescent Movement. Components of the Movement include the ICRC, the International Federation of Red Cross and Red Crescent Societies, and Red Cross and Red Crescent national societies, which are non-governmental organisations with special status in times of armed conflict. This predominantly concerns the ICRC, whose powers and functions are reflected, among other things, in the Geneva Conventions I-IV and the Protocols Additional. The ICRC ensures the coordination of the Movement's components in times of armed conflict.

According to its legal status, the ICRC is an association (a legal entity under private law), whose activities are determined by Article 60 and other provisions of the Civil Code of Switzerland. However, to fulfil its humanitarian mandate and its goals and objectives, the ICRC is granted a status similar to that of an international intergovernmental organisation and has an international legal personality in the conduct of its activities. Notably, having analysed the current situation of military conflicts in the world, the Assembly of the Committee of the Red Cross has identified the main strategic areas of its activities for 2015-2019 as follows:

- reinforcement of activities (the Committee will increase the relevance and effectiveness of the support it provides to people affected by armed conflict and other situations of violence);
- strengthening of the contextualised multi-disciplinary responses to existing challenges;
- performance optimisation (ensuring an appropriate balance between achieving consistency across the organisation and supporting operational flexibility in managing its work).

In fact, it is for these reasons that we currently see the three pillars of the Red Cross movement – the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies, which were mentioned earlier, and national societies – together they operate to fulfil an important mission: to do good and by their example to teach people to support each other in need, selflessly and wholeheartedly aiding the helpless. That is why today the ability to respond to the needs that arise in connection with any conflict situations around the world remains extremely important for the ICRC. This implies a willingness to act quickly and effectively in an acute crisis. In this regard, the ICRC is determined to make the best use of its practical experience and the advantages of having a structured early warning, rapid response and warning system. The ICRC constitutes a mixed-type organisation established under Swiss law, but its functions and activities are enshrined in an international mandate. They are also established by the provisions of international humanitarian law, which is based on such universal agreements as the Vienna Conventions. At present, the ICRC is an organisation recognised by international law, it maintains representative relations with states, similar to diplomatic ones, and concludes international agreements that:

- recognise the ICRC as a subject of internal law, its legal personality, which allows it to conclude contracts, acquire ownership and alienate property in the territory of the host state;
- the ICRC is granted privileges and immunities on the same grounds as to other international organisations.

Equally important is the ability to implement long-term programmes in the context of chronic crises, early stages, transitional or forgotten, or paying little attention to situations of violence. It is worth noting the great contribution of national societies to ensuring this ability, which do so by sharing their experience and skills. In addition, the concept of operational activities, which the ICRC adheres to, makes provision for maximum proximity to the territories in need of assistance, and, consequently, the need to create and maintain a wide network of employees working in different regions, based on a security management system with a high level of decentralisation. This also implies a general recognition of the risks associated with operating in extremely diverse and often unpredictable situations. Notably, the recent large-scale crises (Iraq, Darfur, Pakistan) have demonstrated a high level of trust in the ICRC, the International Federation and national societies. The public believes that the ICRC can provide practical support to the victims. From this, its responsibility and significance only increase. Thus, based on the above, it can be concluded that the International Committee of the Red Cross, as a subject of international law, has sufficient legal personality to take part in international relations and plays an important role in ensuring the protection of victims of internal and international armed conflicts [15; 16].

Based on the provisions of international treaty law, the ICRC has an active ambassadorial right in accordance with the Geneva Conventions, which follows from its right to send delegates to states in the territory of which there is an armed conflict to promote compliance with international humanitarian law. However, despite the fact that the ICRC has its missions (regional and operational delegations) on the territory of member states of the international treaties in the humanitarian field, it does not always have diplomatic privileges and immunities as representatives of states acting under international organisations or representatives of the latter on the territory of states. In this case, everything depends on the nature of the obligations contained in the agreements on the conditions of stay of the ICRC mission concluded between individual states and the ICRC. Furthermore, it is worth noting that, despite the role of the ICRC as a substitute for the Protecting Power being clearly established in the Geneva Conventions and Protocol Additional I, it has never acted in its capacity as a substitute, fearing that public expression against certain violations of international humanitarian law may, at least in the eyes of the violator, undermine its impartiality and, ergo, subsequently damage other potential activities of the ICRC in this conflict [17-19].

Analysing this topic, the fact that the ICRC has become a unique and important actor in the field of human rights over the past 130 years cannot go unnoticed. In fact, it is a private non-governmental organisation, although it has received an official status in public international law. Despite this recognition, the ICRC remains largely private for three reasons:

- it pursues its individual policy as a Swiss private association, and is not guided by the instructions of public authorities;
- it is often presented to public authorities as a private entity, sometimes even when operating in an armed conflict supposedly governed by public international law;

– it provides its detailed reports privately to the relevant authority, rather than publishing them, although other information is provided [20; 21].

The ICRC has received a mandate from the international community to act in all situations of armed conflict and violence around the world. In this respect, the experience gained by national societies and their support are of great service. Such situations are by definition sensitive, and to cope with its role, the ICRC must seek to be accepted by all those directly involved in or affected by the conflict and try to engage in dialogue with them, no matter how difficult the task may seem. Therefore, the ICRC should be neutral and independent, and this is how it should be perceived [22-24]. Although the ICRC, as a human rights defender, has occupied a unique and generally respected position in international relations, its activities have been repeatedly criticised. The first criticism is that the agency is not trying hard enough to fulfil its mandate. Secondly, some believe that this mandate is too dependent on tradition and dilettantism. Finally, some believe that the agency has serious organisational problems, starting with its all-Swiss membership. This analysis of the ICRC's position in the Red Cross Movement against the background of international law provides a basis for discussing the main critical assessments of the ICRC's activities. By now, it should be clear that international law recognises what is essentially a private ICRC. This recognition itself reflects a long tradition of involvement in armed conflict and political detention. But this historical, legal, and practical report should not say that the ICRC is easy to manage. On the contrary, the ICRC is facing many difficult elections, which are worrisome to criticise and constitute the reason for the active work of this organisation.

The influence of the International Committee of the Red Cross on the formation, development, and codification of treaty provisions of humanitarian law is demonstrated in the development and signing of the main treaties in the field of international humanitarian law, namely: the Geneva Convention of 1864, the Hague Conventions of 1899 and 1907, the Geneva Conventions of 1949, the Protocols Additional of 1977. The ICRC has received a mandate from the international community to develop the international humanitarian law. This right is stipulated in the Geneva Conventions of 1949 and in the Charter of the Movement. The ICRC's right to take the initiative is particularly important in this process. Notably, the ICRC never takes part in the treaties that it develops. Such practice allows it to remain neutral and not violate its charter principles, namely impartiality and neutrality. In addition, the ICRC seeks to exercise a monitoring function in relation to the parties to the treaties, and if they are signed, it becomes the subject to be monitored.

The main forms of participation of the ICRC in the development of the international humanitarian law treaties are as follows:

- establishment of special bodies for the development of contracts;
- organisation of conferences;
- aiding at all stages of the law-making process as an expert organisation.

## CONCLUSIONS

The protection of human life and dignity constitutes one of the most important objectives of international humanitarian law. If it is properly applied, accordingly, then it provides the necessary protection for the life and dignity of all those who have been victims of armed conflict. Its provisions are intended to protect civilians, people deprived of their liberty, those wounded in war, and those under military or foreign occupation. The parties to an armed conflict have an obligation to comply with and respect these legal provisions, and the international community must ensure such compliance. Therefore, the existence and effective functioning of the ICRC is a requirement of a civilised society.

Thus, the work of the International Committee of the Red Cross is not only important but also labour- and capital-intensive, as this organisation is truly global and the aid it provides is enormous not only in scope but also in the hope it gives people through its actions. Indeed, the organisation's contribution to global wellness is extraordinary in terms of the size of the territories where aid is provided. The organisation has grown substantially from its initial importance and has become the world's largest charitable organisation that deals with the problems of not only injured soldiers in military operations, but also aids civilians during natural disasters or any problems related to human activities. Perhaps certain financial issues are being handled inadequately and in violation of international financial law, but this is not a reason to accuse the organisation of completely squandering the funds provided for various programmes. The Red Cross is a vital organisation for many backward countries in Africa, where thanks to this organisation, the problem of starvation of the population, providing it with vital food and medicines, is reduced. That is why, because of non-existent alternatives, we cannot consider the option of destroying an organisation, unfortunately or fortunately, it is not up to us to decide, but this organisation is vital for millions of people around the world.

The ICRC plays an important role in shaping the doctrine of the international humanitarian law. Such influence takes two main forms: the development of new doctrines and the interpretation of international humanitarian law provisions. The first is carried out in areas not regulated by the international humanitarian law, or in cases where such regulation is ineffective. Its main task is to fill in the gaps in international law and to develop at least minimum rules of conduct in such cases. The interpretation of the international humanitarian law rules is carried out with the purpose of regulating relations more effectively by improving the implementation or extension of existing international humanitarian law provisions to new relations. The work of the ICRC on the development of the doctrine is purposeful and constitutes the first stage in the process of developing the provisions of contract law.

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**Adel Hamzah Othman**

PhD

Associate Professor of the Department of Law

Al Farabi University College

10022, Al-Masafi Str., Baghdad, Republic of Iraq

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