

Analysis of the Legal Foundations of the Actions of the International Committee of the Red Cross in Mediating Armed Conflicts Between States

Alireza. Bargestani¹, Abbas. Barzegarzadeh^{2*}, Mohammad. Chamkoori³

¹ Department of Law, Public International Law, Emirates Branch, Islamic Azad University, Dubai, United Arab Emirates

² Department of Law, Bushehr Branch, Islamic Azad University, Bushehr, Iran

³ Department of Law and Jurisprudence, Bushehr Branch, Payam Noor University, Bushehr, Iran

* Corresponding author email address: abbasbarzegar60@gmail.com

Received: 2025-08-04

Revised: 2025-12-21

Accepted: 2025-12-28

Published: 2026-01-01

The present study aims to analyze the legal foundations of the actions of the International Committee of the Red Cross in mediating armed conflicts between states. In international law, there is an emphasis on the duty of global institutions to support those affected by war and hostilities. The International Committee of the Red Cross holds a unique position in impartial humanitarian mediation and assistance to states to alleviate human suffering and reduce armed conflicts, benefiting from multiple legal foundations. The research method employed in this study is descriptive-analytical, and data collection is conducted through library research (theoretical sources). The central question is: what are the legal foundations of the actions of the International Committee of the Red Cross in mediating armed conflicts between states? The findings indicate that treaty law and state responsibility play a prominent role in this domain. Valuable legal foundations include the peremptory norm prohibiting and combating torture, the principle of compliance with and enforcement of humanitarian law, the prohibition on the use of human shields, the non-derogable protection of civilians, the application of human rights rules with the support of monitoring and oversight bodies, and broad international consensus. These elements, alongside negotiation, conciliation, and mediation prior to arbitration and as an alternative to litigation, play a significant role in conflict resolution and the realization of the rights of states engaged in armed disputes.

Keywords: *International Committee of the Red Cross, international law, mediation, armed conflicts.*

How to cite this article:

Bargestani, A., Barzegarzadeh, A., & Chamkoori, M. (2026). Analysis of the Legal Foundations of the Actions of the International Committee of the Red Cross in Mediating Armed Conflicts Between States. *Interdisciplinary Studies in Society, Law, and Politics*, 5(1), 1-11. <https://doi.org/10.61838/kman.isslp.281>

1. Introduction

Despite remarkable advancements and positive transformations in industry and technology, modern humanity continues to experience war as a reprehensible phenomenon in the international arena. Unfortunately, due to conflicts of interest, humankind has followed an alarming trajectory of armed disputes

and bloodshed, presenting a world filled with warfare and destruction. States in both the East and West remain under continuous threat of armed attacks by their adversaries, and bloody conflicts persist across various regions of the globe. This reality necessitates the active presence of international mediating institutions to establish peace and stability among warring states. If the sole objective of the International Committee of the Red



Cross (ICRC) is to ensure humanitarian aid, support, and assistance to the victims of armed conflicts and disputes, then this goal must be achieved through established international legal principles. This can be realized by reconciling the dual notions of “military necessity” and “inherent human dignity” or by engaging in direct legal and technical mediation worldwide, encouraging states to develop and promote respect for international humanitarian law (IHL) by both governments and armed groups.

This article seeks to, first, extract global human rights standards by referring to legal instruments and norms, with an emphasis on the international judicial practice of relevant courts. Second, it aims to examine the consequences of violating these fundamental principles in light of the international responsibility regime of states. Furthermore, it will analyze and discuss the legal foundations of the ICRC’s mediation efforts among states engaged in armed conflicts, considering theoretical reflections on international armed disputes and humanitarian legal variables. Without a doubt, the successful implementation of international humanitarian law requires the commitment and adherence of all states to international legal provisions. This commitment ensures relative justice and guarantees the interests of smaller powers against aggressive states, regardless of whether the contracting state benefits from the treaty or incurs losses.

2. Conceptual Framework

To better understand the definitions, scope, and classification of the research subject, the theoretical framework and literature of the issue are analyzed.

2.1. Legal Foundations

The term “foundations” is a frequently used concept in legal research, signifying the underlying principles and basis for legal reasoning. In this context, discussions often revolve around two key concepts: the “binding force of law” and the “justification of legal validity.” Some scholars interpret legal foundations as “unwritten legal principles or rules derived from legal norms,” while others describe them as “a term used to explain the rationale behind a legal rule” (Mansourabadi & Riahi, 2012).

According to one theory, the fundamental basis of law is justice, asserting that respect for legal principles stems not from the will of the state but from the innate human desire for fairness and justice. Another perspective posits that the foundation of law is state power rather than justice. This theory argues that the ruling class enforces legal norms upon society, and citizens are compelled to abide by these prescribed regulations. Those who regard justice as the basis of law believe in the existence of superior and natural legal principles that transcend governmental will, obliging states to uphold and protect these norms. Conversely, proponents of the latter theory view law as a product of governmental legislation and historical societal developments. Consequently, the former perspective aligns with the “natural law school,” while the latter corresponds to the “positivist school” of legal thought.

2.2. The International Committee of the Red Cross (ICRC)

The International Committee of the Red Cross is an independent and neutral organization with an exclusively humanitarian mission. It operates within the framework of international law to safeguard the lives and dignity of victims of armed conflicts across the globe (Policy Document, 2014). Initially founded to provide care for wounded soldiers, the organization later expanded its scope to alleviate suffering and support humanitarian peace initiatives. Today, Red Cross societies exist in nearly every country, functioning both during wartime and peacetime. The organization provides aid to vulnerable and displaced populations without discrimination based on class, race, ideology, or nationality.

The ICRC consists of three main components. The first is the International Committee of the Red Cross, an independent body composed of 25 Swiss nationals, headquartered in Geneva. The second component includes the various Red Cross societies, and the third is the National Red Cross Societies. During armed conflicts, the ICRC acts as an intermediary between national Red Cross societies and the warring states. Additionally, it provides relief to victims of natural disasters such as hurricanes, floods, and earthquakes (Hashem Pour, 2020).

2.3. Mediation

Mediation is a legal and political concept employed in resolving disputes among individuals, groups, and states. The literal meaning of mediation is to create reconciliation, tranquility, and negotiation among parties. Unlike arbitration or expert evaluation, mediation does not impose a binding decision on the disputing parties. Instead, the mediator facilitates negotiations, identifies the core areas of disagreement, and helps the parties reach the most effective resolution. In technical terms, mediation is a political-diplomatic method of peaceful dispute resolution wherein a third party intervenes to mitigate or resolve conflicts between disputing parties, offering friendly suggestions for negotiation (Turner, 2023). Under Chapters VI and VII of the United Nations Charter, mediation represents an underexplored aspect of the collective security regime in international law. Over the past two decades, mediation has significantly evolved as a recognized mechanism for peaceful dispute resolution, gaining acceptance within the global community. The process has shifted from an informal negotiation tool between conflicting parties to a structured commitment embedded in international legal norms and values.

The conceptual distinction between mediation and good offices lies in the mediator's role. In good offices, the third party merely facilitates the initiation of negotiations between conflicting parties. In contrast, in mediation, the third party not only initiates negotiations but actively participates in peace discussions and proposes viable solutions (Sabbaghian, 2011).

3. Legal Foundations of the Actions of the International Committee of the Red Cross

3.1. Fundamental Treaty Law

One of the key legal foundations for the International Committee of the Red Cross (ICRC) in ensuring compliance with humanitarian norms is the obligation of states to adhere to international treaty law. The term "treaty" or "convention" refers to an international agreement concluded under the provisions of international law and governed by written instruments. Such agreements may be concluded between multiple states or between international organizations, specifying mutual obligations. Whether contained in a single document or multiple related instruments, treaty law

applies to any state or international organization that has expressed its intent to be bound by humanitarian treaties (Esmail Nasab, 2014).

An international treaty is any bilateral or multilateral agreement (written or oral) concluded between subjects of international law, provided that the agreement is established in accordance with internationally accepted rules and governed by corresponding regulations, thereby producing specific legal effects (Ziaei Bigdeli, 2004). In other words, international treaties constitute norms that obligate states to uphold humanitarian law, though their position in the hierarchy of legal systems varies. In some states, international treaties hold a status superior to ordinary laws, whereas in others, they are considered equivalent or even subordinate to domestic statutes.

In international law, a protocol—which itself constitutes a treaty or international agreement—is often attached to a primary treaty and may serve to implement, amend, supplement, or interpret it. Generally, a treaty enters into force after voluntary ratification or accession by a specified number of states. However, the age of many international treaties and their incompatibility with contemporary conditions has raised significant questions regarding the evolving role of state practice in ensuring the flexible application of treaties. States, in addition to accepting the binding obligations of treaty law, are compelled to establish adaptive mechanisms for rapid legal responses to emergencies. In this regard, soft law serves as an appropriate framework for developing emerging legal concepts, allowing states to weigh the benefits and drawbacks of making potential commitments legally binding. For example, the Universal Declaration of Human Rights (UDHR), despite being a non-binding instrument and classified as soft law, has inspired the adoption of several binding international treaties for the protection of human dignity (Hadi Vand & Seifollahi, 2009).

The ICRC, in accordance with international treaty law and based on its seven fundamental principles, considers itself legally obligated to implement the provisions of ratified international treaties. In fulfilling its inherent duty, the ICRC undertakes humanitarian actions to protect and assist victims of conflicts, mediate between warring states, promote peace, and guarantee the fundamental rights and freedoms of nations.

3.2. State Responsibility

All international systems and states bear responsibility for the lives, property, and dignity of human beings. A precise definition of state responsibility in international law, along with the obligation to uphold it, strengthens the enforcement of international legal obligations. States, as the primary and traditional subjects of international law, possess extensive authority over each other and other legal entities. State responsibility entails significant consequences, including the obligation to compensate for material and even moral damages suffered by victims.

International responsibility serves as a mechanism for regulating relations among members of the international community. This concept becomes relevant when a wrongful act is committed by a member state; however, the occurrence of a violation must be established based on international legal standards. Reparation constitutes the primary consequence of international responsibility, and a state's liability depends on its ability to provide such compensation. Nonetheless, states may invoke exceptions to liability, including self-defense, necessity, and force majeure, to evade responsibility (Taghavi Nejad, 2018).

Under the Responsibility to Protect (R2P) doctrine, if a state is unable or unwilling to protect its own citizens within its jurisdiction, and serious violations of human rights and humanitarian law are occurring, the responsibility shifts to the international community (United Nations General Assembly, 2005, para. 3). However, the exercise of this responsibility must comply with the principles of the United Nations Charter and be subject to the oversight of the UN Security Council. This principle has been reaffirmed in a resolution by the Institute of International Law, which, in accordance with Article 51 of the UN Charter, states that any use of force by a state must be justified under self-defense or collective security arrangements under Security Council supervision (Ranjbarian & Bagherzadeh, 2013).

Certain individual actions, whether through acts or omissions, are legally attributed to the state, thereby establishing its responsibility for an internationally wrongful act. State responsibility, as codified by the International Law Commission (ILC), has led to the systematic development of secondary rules of attribution, which are presumed to apply universally

(Milanovic, 2020). State responsibility in international law arises from wrongful acts and breaches of international obligations. A thorough examination of state responsibility highlights the role of the international legal framework in addressing treaty violations, emphasizing the effectiveness of invoking state responsibility for breaches of erga omnes obligations (Tabibi et al., 2019).

During armed conflicts and amidst the turmoil of war, states are bound by international responsibility to adhere to customary norms protecting prisoners of war. Certain inhumane acts, if committed, constitute war crimes, leading to both individual criminal liability and state responsibility under international law. Seeking the intervention of the ICRC during armed conflicts falls within the scope of state responsibility. As a neutral and highly influential humanitarian institution, the ICRC is the foremost actor in ensuring international responsibility, safeguarding human dignity in the face of violence and bloodshed. It plays a critical role in preventing international crimes, addressing the plight of victims, and facilitating transitional justice.

3.3. The Peremptory Norm Prohibiting and Combating Torture

One of the most significant achievements of international efforts to protect the rights of all members of the human family is the prohibition and eradication of torture. The use of torture was not limited to the Middle Ages when it was sanctioned against opponents of the Church. Even in recent centuries, this inhumane practice has been observed in armed conflicts. Progress in international law has granted the prohibition of torture a distinctive status. Today, the right to be free from torture is recognized as a fundamental human right and a non-derogable right that must be upheld under all circumstances. Furthermore, the prohibition of torture has not only attained customary international law status but has also been established as a peremptory norm (jus cogens) of international law.

Under this rule, states must not only refrain from authorizing or participating in acts of torture but must also take measures to prevent their occurrence. In the past two decades, certain states, including the United States, have resorted to a specific form of torture known as preventive torture under the pretext of counterterrorism, national security, and the protection

of innocent lives. These actions have been justified on the grounds of self-defense and necessity. However, the commission of torture constitutes a flagrant violation of human rights and is in direct contradiction to two fundamental principles: the absolute prohibition of torture and the obligation to respect human dignity. This, in turn, establishes both individual and state responsibility under international law.

"The necessity of prohibiting the brutal act of torture stems from the assertion that torture not only violates the inherent human rights of individuals but, more importantly, under Article 7 of the Rome Statute of the International Criminal Court (ICC), adopted in 1998 by the UN General Assembly, it is considered a crime against humanity and, therefore, an offense against the interests of the international community as a whole. Consequently, prosecution for this crime should fall under international criminal jurisdiction rather than remain within the exclusive competence of domestic courts. At the international level, the UN Human Rights Committee and the Committee Against Torture are responsible for interpreting state obligations under the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture (CAT)" (Mirzajani, 2013).

Undoubtedly, if a state, a group of states, or a regional organization intervenes to prevent or end gross violations of human rights and humanitarian law through coercive measures, such actions would contravene the peremptory norm prohibiting the use of force, as enshrined in Article 2(4) of the United Nations Charter.

"The absolute prohibition of torture and other cruel, inhuman, or degrading treatment or punishment has been explicitly recognized in modern international legal instruments. International humanitarian law and human rights law prohibit all forms of human suffering and mistreatment under the 1949 Geneva Conventions, their 1977 Additional Protocols, the 1984 Convention Against Torture, and other international treaties, which serve as complementary mechanisms for preventing and punishing perpetrators" (Gheibi & Farshi, 2020).

The law of armed conflict presents both simplicity and complexity. While it is founded on clear principles, its application to situations that are difficult to define and to acts that may be considered lawful, unlawful, or even

criminal depending on the circumstances remains a major challenge.

One of the primary objectives of the International Committee of the Red Cross is to prevent torture and harm to civilians in war-torn states. The 1984 UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by UN member states, stands as a testament to this commitment to human dignity and serves as a warning to perpetrators of torture. States engaged in armed conflicts are obligated to comply with this peremptory norm under the principles of humanity, impartiality, and voluntary independence. The UN Convention Against Torture mandates states to adopt effective measures within their jurisdiction to prevent torture. Adherence to these principles has strengthened the authority and independence of the ICRC.

3.4. *The Principle of Compliance with and Obligation to Uphold International Humanitarian Law*

International humanitarian law governs the conduct of hostilities and the regulation of armed conflicts. Its primary objective is to mitigate human suffering during warfare by providing assistance and protection to victims. Therefore, international humanitarian law applies irrespective of the reasons for or legitimacy of the use of force and solely regulates conflicts from a humanitarian perspective.

"The protection and enforcement of international humanitarian law hold a prominent position in the ICRC's mandate. The ICRC plays a crucial role in the development of legal frameworks applicable to international armed conflicts and in ensuring the effective protection of individuals and the defense of vulnerable states, despite having faced multiple challenges over time" ("The view of the past in international humanitarian law (1860-2020)," 2022).

International humanitarian law prioritizes the protection of innocent lives. "This body of progressive law requires parties to armed conflicts to take all feasible precautions to safeguard civilians during military operations. They must minimize accidental harm, civilian casualties, and damage to civilian objects. These obligations include:

1. Canceling or suspending attacks if it becomes evident that the intended target is civilian.

2. Taking all feasible precautions in the selection of means and methods of warfare to prevent or reduce civilian harm and damage.
3. Providing advance warnings when feasible, for attacks that may affect civilian populations.
4. Refraining from placing military objectives within or near densely populated areas.
5. Making efforts to evacuate civilians from areas adjacent to military targets.

Therefore, belligerents must not only refrain from using civilians as human shields but must also actively take measures to protect them from harm and the consequences of armed attacks" (Nayeri & Motavalli, 2011).

International humanitarian law fills the gaps left by treaty law regarding both international and non-international armed conflicts, thereby enhancing protection for victims. In international armed conflicts, determining which state has violated the UN Charter is often difficult. The enforcement of humanitarian law does not involve condemning one party over another, as both sides typically claim to be victims of aggression. Such disputes could obstruct the implementation of humanitarian protections. Additionally, international humanitarian law is specifically designed to protect war victims and their fundamental rights, regardless of their affiliation with either party to the conflict.

The ICRC's legal advisory service assists states in fulfilling their obligations to promote and implement international humanitarian law through legislative and governmental measures. This service collaborates closely with national committees on international humanitarian law, offering expert legal and technical assistance on matters ranging from punishment for violations of the Geneva Conventions to the protection of Red Cross, Red Crescent, and Red Crystal emblems. Many states, even those that have not ratified treaty law, remain bound by international humanitarian law.

A 2005 ICRC study revealed that the legal framework governing armed conflicts under international law is far more comprehensive than treaty law alone, highlighting the critical importance of these protections.

Today, some argue that the principles and rules of international humanitarian law have become obsolete due to new weapon technologies, while others believe that existing international rules remain sufficient to regulate hostile state relations. In reality, despite

significant advancements in military technology, these legal principles continue to be relevant, as their inherent flexibility allows them to adapt to modern conflicts. While new weaponry, like all emerging technologies, poses legal challenges for both manufacturers and states, these challenges can be mitigated through specific regulatory measures.

"International humanitarian law is designed to alleviate human suffering, protect victims of armed conflicts, and uphold human dignity in times of war. It imposes legal obligations on both state and non-state actors. In this regard, the four Geneva Conventions of 1949 and their 1977 Additional Protocols remain the cornerstone of the international humanitarian law regime" (Greenwood, 2008).

The ICRC engages with military and police forces using former law enforcement and military officers as experts, aiming to integrate humanitarian and human rights law into operational training and procedures. Additionally, the ICRC explains its field activities to these forces to enhance operational cooperation.

3.5. *The Law Prohibiting the Use of Human Shields and the Non-Derogable Protection of Civilians*

Wars and their devastating consequences impose the greatest and deepest suffering on humanity. Since civilians bear the brunt of the damage caused by armed conflicts, this reality has prompted humanitarian organizations, institutions, and states to take measures for their protection. To counter this challenge, support mechanisms, legal frameworks, and specialized instruments have been adopted.

"Although the use of defenseless women and children as human shields in conflicts has a long history, historical records have consistently condemned and deemed this practice unethical. Consequently, with the early codification of the laws of war in the twentieth century, one of the first established rules was the prohibition of using human shields. Civilians—whether as perpetrators or victims—play a decisive role in the outcomes of armed conflicts. The illegitimacy of attacks on civilians depends on their conduct during hostilities and is linked to the principle of direct participation in hostilities, which means that if civilians engage in hostilities, their protection against the dangers of military operations is suspended" (Jinkst, 2003).

The presence of humanitarian organizations such as the International Committee of the Red Cross (ICRC), peace advocacy NGOs, and anti-war activists plays a significant role in reducing armed violence and mitigating inhumane conflicts. According to the 1949 Geneva Conventions and their 1977 Additional Protocols, civilians must not be targeted under any circumstances and must be granted immunity and protection. The ICRC's foundational mission and humanitarian efforts ensure that all authorities and parties respect international humanitarian law (IHL) and human rights law. Fundamental among these obligations are the right to life, dignity, and physical and mental well-being. The ICRC works to guarantee that civilians are not subjected to discrimination and have access to medical care, clean water, agricultural land, and other essential resources.

4. International Legal Sources and Instruments on the ICRC's Role in Mediating Armed Conflicts

While humanitarian NGOs accept the reality of state actions, they cannot remain politically neutral in cases of human rights violations. These organizations advocate for governmental reforms and demand compliance with legally binding instruments that states have voluntarily adopted.

"During armed conflicts, which often lead to the severance of diplomatic relations, a state may request a third-party government to protect its interests and nationals. This third party is referred to as a 'protecting power.' The ICRC has played an increasingly influential role in reducing armed conflicts and has filled the void left by the absence of protecting powers without formally assuming that title. In addition to developing, codifying, and ensuring the effective implementation of international humanitarian law, the ICRC actively participates in its enforcement. The ICRC's peacekeeping activities are based on the seven fundamental principles of the International Red Cross and Red Crescent Movement, the expansion of humanitarian initiatives, and the implementation of the Geneva Conventions" (Mirzajani, 2013).

The four Geneva Conventions and the First Additional Protocol impose obligations on the ICRC to intervene during international armed conflicts. In particular, the ICRC has the right to visit prisoners of war and civilians. The Conventions grant the ICRC broad authority to take the initiative and propose measures.

During non-international armed conflicts, the ICRC enjoys a recognized humanitarian initiative enshrined in Common Article 3 of the four Geneva Conventions.

During internal unrest and other humanitarian crises, the ICRC retains the right to humanitarian initiative, as stated in the Statutes of the International Red Cross and Red Crescent Movement. This means that even where IHL does not apply, the ICRC can still offer its services without infringing on the domestic affairs of the state concerned.

"For decades, the ICRC and its national societies have played a crucial role in shifting the focus of the laws of armed conflict—from state-centric approaches to human-centered protections. The effectiveness of protecting powers depends on their selection and proper execution of duties, but reaching a state consensus on appointing such an entity remains unlikely today" (Mirzajani, 2013).

The ICRC, as a global mediator, has drafted humanitarian regulations in a manner that, while lacking the full legal enforceability of binding treaties, effectively facilitates and develops international humanitarian law. Accordingly:

1. Individuals who have disengaged from hostilities and those not directly participating in the conflict have the right to life and physical and psychological integrity. They must be treated with respect and without discrimination.
2. Killing or wounding an enemy who has surrendered or ceased to participate in hostilities is prohibited.
3. The wounded and sick must be collected and cared for by the party in control. This protection extends to medical personnel, facilities, transportation, and equipment. The Red Cross or Red Crescent emblem signifies this protection and must be respected.
4. Captured combatants and civilians under the control of a belligerent party have the right to life, dignity, personal rights, and freedom of belief. They must be safeguarded against violence and reprisals, and they have the right to communicate with their families and receive aid.
5. Every individual is entitled to fundamental judicial guarantees. No one should be held responsible for acts they did not commit, nor

subjected to torture, corporal punishment, or cruel and degrading treatment.

6. Belligerent parties and their armed forces do not have unlimited rights in the means and methods of warfare. The use of weapons or tactics that cause unnecessary suffering or excessive harm is prohibited.
7. To protect civilian persons and objects, belligerents must distinguish between civilian populations and combatants. Civilians must not be attacked, and military operations must exclusively target combatants.

"Most legal scholars reference Common Article 2 of the four Geneva Conventions when classifying transnational armed conflicts. They argue that international armed conflicts must occur between two or more contracting states and that the Conventions do not apply to conflicts between a state and a non-state actor" (Jinkst, 2003).

The four Geneva Conventions and their Additional Protocols regulate the humanitarian legal framework governing war and armed conflicts. These laws were formally adopted as the four Geneva Conventions on August 12, 1949, and the Additional Protocols on June 8, 1977.

The four Geneva Conventions include:

1. The Geneva Convention on the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field.
2. The Geneva Convention on the Amelioration of the Condition of Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea.
3. The Geneva Convention on the Treatment of Prisoners of War, based on respect for human dignity and fundamental rights.
4. The Geneva Convention on the Protection of Civilian Persons in Time of War.

"These conventions regulate the conduct of hostilities, the treatment of combatants, the protection of civilians, medical and religious personnel, and the rights of neutral parties" (Jafari Voldani, 2015).

Furthermore, the 1977 Additional Protocols were adopted to complement the Geneva Conventions.

- Protocol I concerns the protection of victims of international armed conflicts.
- Protocol II concerns the protection of victims of non-international armed conflicts.

The Additional Protocols were introduced to address the evolving nature of warfare and provide enhanced protection for victims.

5. The Mechanism of the International Red Cross's Mediation in Armed Conflicts Between States

The management and control of global armed conflicts involve various methods, with one of the most effective being the widespread presence of mediators and the recognition of mediation as a fundamental principle for resolving international disputes. Due to its prolonged process, non-binding decisions, and lack of sufficient enforcement mechanisms, mediation has recently become the subject of systematic study and increasing attention from legal scholars.

Data collected on international disputes and mediation efforts between 1945 and 1989 demonstrate that mediation encompasses a spectrum of approaches, ranging from completely passive efforts (such as good offices) to highly active interventions (such as exerting pressure on the disputing parties). Unlike ordinary negotiations, mediation is structured, time-sensitive, and dynamic, involving a confidential and legally implemented process. Participation is often voluntary, and the mediator acts as a neutral facilitator rather than a decision-maker.

Mediation's neutral nature is a key characteristic, and it involves examining environmental and procedural variables that influence mediation outcomes. These variables are classified into four main categories: (1) the nature of the disputing parties, (2) the essence of the conflict, (3) the identity and characteristics of the mediator, and (4) the professional strategies and tactics employed by mediators (Gheibi & Farshi, 2020).

"When discussing the stages and forms of conflict resolution that may lead to a genuine and complete settlement, negotiation serves as an essential tool for conflict control. Negotiation involves the exchange of facts, ideas, and commitments between two or more parties with the goal of achieving a mutually satisfactory resolution" (Turner, 2023). However, this approach is often difficult, as disputing parties may struggle to initiate direct negotiations even when the necessary conditions are met.

From this perspective, mediation is a negotiation-based process facilitated by a third party who lacks formal authority but plays a role in the relations between the

conflicting parties. Within this framework, the concept of good offices emerges as a practice closely related to mediation. The key distinction between good offices and mediation is that in good offices, the third party does not propose a solution but merely facilitates direct communication between the disputing parties. In contrast, mediation involves active intervention, where the mediator engages in the conflict and proposes solutions to manage it (Jafari Langroudi, 2022).

The first comprehensive rules for resolving international disputes through mediation and good offices were established in the First Hague Conference of 1899. The Hague Conventions of 1899 and 1907 laid the groundwork for similar provisions in numerous international treaties based on international law. While the 1907 Hague Convention does not explicitly differentiate between good offices and mediation, notable practical differences exist between these negotiation techniques (Safdari, 1963).

Although mediation is generally voluntary, certain multilateral treaties have introduced a mandatory form of mediation. In this compulsory mediation, two or more states agree in advance that if a dispute arises, they will submit to the mediation of a pre-selected third state. According to Article 8 of the First Convention of the Second Hague Conference, states may agree to each appoint a mediator to resolve future disputes, thereby preemptively relinquishing their authority over the resolution process to the mediating state. However, mandatory mediation has not gained widespread acceptance due to concerns over its coercive nature (Hadi Vand & Seifollahi, 2009).

Violence against humanitarian aid workers and barriers to assisting conflict victims have become major international challenges. Recognizing and analyzing these obstacles is crucial for the protection of humanity, a fundamental objective of international humanitarian law (IHL). Consequently, providing comprehensive humanitarian assistance in armed conflicts is a legal necessity. Under current conditions, IHL offers an appropriate legal framework for humanitarian access to those in need, and in most cases, improving victim conditions requires greater compliance with existing legal norms rather than the introduction of new rules.

The key process-related factors influencing the effectiveness of third-party mediation—one of the most impactful dispute resolution methods in armed

conflicts—fall into four categories: (1) the nature of the disputing parties, (2) the essence of the conflict, (3) the identity and characteristics of the mediator, and (4) the strategies and tactics employed by mediators. These justice-oriented elements can only support the ICRC's mediation efforts if they are backed by strong legal guarantees and a comprehensive legal framework.

"The ICRC, in its efforts to prevent humanitarian disasters in armed conflicts, relies not only on the doctrine of human security and human rights law but also on legal ceasefire agreements to de-escalate armed hostilities and temporarily halt crises. Ceasefires, truces, and armistices represent three phases in the transition from war to peace. In armistice agreements, the formation of a ceasefire commission is typically mandated, with equal representation from both parties to monitor and address ceasefire violations" (Esmail Nasab, 2014).

Another crucial tool for the ICRC's mediation efforts includes diplomatic mechanisms, consultations, negotiations, and pre-existing diplomatic channels. First recognized in the 1899 Hague Convention as a complement to arbitration, this method has been repeatedly endorsed in UN resolutions for its effectiveness in resolving ambiguities and facilitating peaceful dispute resolution. In addition to good offices, other methods such as conciliation and compromise are also utilized in this field. Legal practice plays a key role in fostering communication between various groups and organizations in both peacetime and wartime. Fact-finding is another peaceful dispute resolution method employed when determining the root causes of a conflict requires an investigation into factual circumstances and the application of international law (Ranjbarian & Bagherzadeh, 2013).

It is important to note that certain issues related to armed conflict regulation are addressed in The Hague Regulations, and most international disputes are resolved through diplomatic negotiations, which remain the oldest and most common method of international conflict resolution. Patient and persistent diplomatic negotiations can help resolve many disputes or at least narrow the scope of disagreements. Many treaties addressing international dispute resolution apply only when negotiation and diplomacy fail. When negotiations reach an impasse, disputing parties may resort to

alternative dispute resolution mechanisms, and at this stage, the ICRC must actively fulfill its mediation role.

6. Conclusion

The International Committee of the Red Cross (ICRC), a neutral humanitarian and peace-oriented organization, has played a pivotal role in mediating armed conflicts between states for over 140 years through its legal interventions and humanitarian efforts. Supported by strong legal frameworks and international backing, the ICRC is authorized to negotiate with conflicting parties and collaborate with states and international organizations to draw attention to the plight of war victims. The ICRC operates 16 regional offices and 60 national delegations, with four main logistical hubs in Abu Dhabi, Budapest, Nairobi, and Panama supporting Red Cross activities worldwide.

The ICRC is guided by seven fundamental principles: humanity, impartiality, neutrality, independence, voluntary service, unity, and universality. Additionally, the three core principles of distinction, precaution, and proportionality, derived from IHL, form the foundation of its mediation efforts.

The ICRC is legally grounded in international law, with treaty law and state responsibility playing a significant role. Key legal principles include the peremptory norm prohibiting and combating torture, the obligation to uphold IHL, the prohibition of human shields and the non-derogable protection of civilians, the enforcement of human rights through oversight mechanisms, and international consensus. Alongside negotiation, conciliation, and mediation as alternatives to arbitration and litigation, these mechanisms contribute significantly to peacebuilding and the enforcement of the rights of states engaged in armed conflict.

1. IHL governs the conduct of warfare and is purely humanitarian, aiming to minimize the suffering caused by war. Major powers should be prohibited from interfering in this domain.
2. To enhance ceasefire agreements and promote peace in international relations, the principle of confidentiality in ICRC and WIP mediation should be maintained, with exceptions strictly limited and narrowly interpreted.
3. To advance mediation efforts, regulations must be robustly enforced to prevent opportunistic

individuals from exploiting the confidentiality privilege.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

Acknowledgments

We would like to express our gratitude to all individuals helped us to do the project.

Declaration of Interest

The authors report no conflict of interest.

Funding

According to the authors, this article has no financial support.

Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

References

- Esmail Nasab, H. (2014). Collection of the Most Important Practical Documents of International Law.
- Gheibi, G., & Farshi, H. (2020). *Practical Legal Discussions on Mediation in Criminal Matters*. Chatr Danesh.
- Greenwood, C. (2008). Historical Development and Legal Basis. In F. Dieter & e. nd (Eds.), *The Handbook of International Humanitarian Law*. Oxford University Press.
- Hadi Vand, M., & Seifollahi, A. (2009). The Status of Soft Law in the Development of International Law. *Rahbord*(50), 131-148.
- Hashem Pour, E. (2020). *Private International Law*. Jungle Publications.
- Jafari Langroudi, M. (2022). *Law of Obligations*. Ganj Danesh.
- Jafari Voldani, A. (2015). *Iranian Law and International Law*. Parineh.
- Jinkst, D. (2003). September 11 and the Laws of War. *The Yale Journal of International Law*, 28, 39.

- Mansourabadi, A., & Riahi, J. (2012). Conceptualization of "Fundamentals" in Legal Research. *Legal Research Journal*(22), 9-24.
- Milanovic, M. (2020). Special Rules of Attribution of Conduct in International Law.
- Mirzajani, M. (2013). *The Role of Protecting Powers in Ensuring the Implementation of International Humanitarian Law* [University of Qom].
- Nayeri, B., & Motavalli, A. (2011). Violations of Humanitarian Law in the 33-Day War Based on International Law Regulations. *Quarterly Journal of International Relations Studies*, 4(15), 187-210.
- Ranjbarian, A. H., & Bagherzadeh, R. (2013). Fundamentals of Implementing Humanitarian Law: State Obligations to Observe and Ensure Compliance with Humanitarian Law. *Allameh Tabatabai University*, 16(46), 125.
- Sabbaghian, A. (2011). *The Role of Mediation in the Settlement of International Disputes*. Printing and Publishing Institute of the Ministry of Foreign Affairs.
- Safdari, M. (1963). *International Obligations and Dispute Resolution*. Mizan Publications.
- Tabibi, S., Tabibi, S., & Zamanpour, B. (2019). The Approach of the International Responsibility of States to Violations of Legal Norms and Treaty Non-Compliance. 2(5), 16-20.
- Taghavi Nejad, S. S. (2018). Effects of the Realization of State International Responsibility and Its Obstacles.
- Turner, C. (2023). International Law and the Securitisation of Peacemaking: On Chapter VII, the Security Council and the Mediation Mandate in Yemen. *Journal of Conflict and Security Law*, 28(1), 161-186. <https://doi.org/10.1093/jcsl/krac031>
- The view of the past in international humanitarian law (1860-2020). (2022). *International Review of the Red Cross*, 920-921, 1586-1620. <https://doi.org/10.1017/S1816383122000145>
- Ziaei Bigdeli, M. R. (2004). An Overview of International Responsibility Arising from Violations of Human Rights and Humanitarian Law. *Research on Law and Politics*, 13, 28.