

Department of *Political Science*

Degree Program in *Politics: Philosophy and Economics*

Chair of *International Law*

**The International Committee of the
Red Cross and its role in
International Humanitarian Law**

Supervisor

Pierfrancesco Rossi

Candidate

Mattia Torre (ID 105922)

Academic Year 2024/205

Index

Introduction	1
1. The Origins and the Legal Status of the International Committee of the Red Cross	3
1.1 The History of the Red Cross	3
1.1.1 The Rise of the Red Cross	3
1.1.2 The Geneva Convention of 1864	8
1.1.3 The Two World Wars	12
1.1.4 The Post-WWII Era	14
1.2 The Position of the International Committee of the Red Cross within the Movement	15
1.3 The Legal Status of the International Committee of the Red Cross	17
1.4 Conclusion	20
2. International Humanitarian Law and the role of the International Committee of the Red Cross	22
2.1 International Humanitarian Law	22
2.1.1 The General Context	22
2.1.2 The Geneva Conventions and the Additional Protocols	26
2.2 The Role of the International Committee of the Red Cross	32
2.2.1 The Mandate of the ICRC according to its Statutes	32
2.2.2 The ICRC and International Humanitarian Law	34
2.3 Conclusion	39
3. The Work of the International Committee of the Red Cross on the Field	40
3.1 The ICRC in Israel and the Occupied Territories	40
3.2 The ICRC in Myanmar	45
3.3 The ICRC in Ukraine	49
3.4 Conclusion	53
Conclusion	55
References	59
Bibliography	59
Legal Instruments	66
Web Sources	67

Introduction

The Red Cross is an institution that is universally known because it is present, through National Red Cross and Red Crescent Societies, in the lives of virtually anyone on earth. However, or perhaps precisely because of its global presence, the nature of this institution needs further clarification.

As this thesis will explore, the Red Cross of today originates from the International Committee of the Red Cross (ICRC). This institution, which is still active, was established in the 1860s thanks to the contributions of many, most notably Henry Dunant. Dunant, a businessman from Switzerland who has been moved by the suffering he witnessed in the aftermath of the Battle of Solferino of 1859, in Northern Italy, was convinced of the importance of creating an entity in charge of the care of the wounded soldiers. After transposing what he saw in his *A memory of Solferino*, he found a favorable environment in Geneva, where the Permanent International Committee for the Relief of Wounded Soldiers first met in 1863. This Permanent Committee is what would later be renamed the International Committee of the Red Cross.

The Red Cross, however, is a broader reality. The Red Cross and Red Crescent Movement is in fact composed of the ICRC, the International Federation of Red Cross and Red Crescent Societies, and the National Red Cross and Red Crescent Societies. Each of these three components of the Movement is autonomous and independent but still strictly linked to the other. In particular, the International Federation and National Societies cooperate closely, especially in international environments.

The first Committee established in Geneva was responsible for drafting and preparing the adoption of the Convention for the Amelioration of the Condition of the Wounded in Armies in the Field in 1864. This document, also known as the 1864 Geneva Convention, represents the first step in the development of international humanitarian law. For the first time, States agreed to be bound to respect certain limits in the conduct of hostilities. The Convention is not *en vigueur* anymore because it has been replaced, and indeed improved, various times. In 1949, under the auspices of the ICRC, the Four Geneva Conventions were adopted and, after a few decades, Three Additional Protocols expanded their scope. At present, these documents are considered to be the main sources of IHL. Moreover, many of the provisions they contain also

amount to the status of customary norms. It must not be neglected that international humanitarian law received important contributions from outside the ICRC as well.

Due to its prominent role in the drafting and adoption of the Four Conventions and the Three Protocols, the ICRC is widely regarded as the guardian of international humanitarian law today. As will be shown throughout this thesis, the International Committee of the Red Cross applies IHL norms in its relentless efforts in the most complex scenarios in the world. To do this, the ICRC dialogues both with governments and national authorities in general and also with the population affected either by armed conflicts or disasters.

This thesis will be devoted to illustrating what the International Committee of the Red Cross is and does. In the first chapter, the history of the ICRC, and of the Red Cross in general, will be explored. Furthermore, an explanation of the position within the Movement and of the legal status of the Committee will be provided. The second chapter will be dedicated to explaining what international humanitarian law is and the contribution of the ICRC to its development and application. Lastly, the third chapter will provide more detail about the work of the Committee on the field, particularly in the complex instances of Israel and the Occupied Territories, Myanmar, and Ukraine.

1. The Origins and the Legal Status of the International Committee of the Red Cross

The rise of the Red Cross is usually considered to date back to the Battle of Solferino. In fact, Henry Dunant, one of the fathers of the idea of the Red Cross, witnessed the bloodshed and its consequences on Franco-Piedmontese and Austrian soldiers. It is precisely Dunant who felt the need to establish voluntary relief societies with the aim of taking care of the wounded soldiers on the battlefield. As we shall see, however, Dunant's was not a *vox clamantis in deserto*¹. He could operate in a favorable environment that allowed him to conceive, and give birth to what would eventually become the Red Cross. Moreover, the present scope of action of the ICRC went far beyond that initially envisaged by Dunant.

1.1 The History of the Red Cross

1.1.1 The Rise of the Red Cross

The Battle of Solferino, fought during the Second Italian War of Independence, saw the confrontation of the Franco-Piedmontese and Austrian armies and is one of the bloodiest fighting of the 19th century². The battle lasted fifteen hours and took place on 24th June 1859, when the Swiss businessman Henry Dunant, who hoped to talk with the French emperor Napoleon III, got to Castiglione delle Stiviere, a village close to the battlefield.

There, Dunant could personally witness not only the vast quantity of dead and wounded soldiers but also the scarcity of medical services. In fact, the French army only had 1 doctor for 1,000 men, while having 3 veterinary doctors for every 1,000 horses. Moreover, the closest field hospital established by the French army was not near the battlefield but adjacent to the village of Castiglione, where the Headquarters of the

¹ Duccio Vanni *et al.*, "Medical Doctors and The Foundation of The International Red Cross", *Internal and Emergency Medicine*, 2017, no.13: 302.

² Frederick M. Burkle, "Revisiting the Battle of Solferino: The Worsening Plight of Civilian Casualties in War and Conflict", *Disaster Medicine and Public Health Preparedness* 13, no. 5-6 (2019):838.

French army were³. He immediately started to organize some relief for the fallen soldiers and saw how the women from Castiglione treated everyone in the same way. As Dunant writes in his *A Memory of Solferino*, these women repeated they were “Tutti fratelli”⁴, indicating that they treated anyone as their own brothers, without taking into account their nationality or affiliation. It is from this experience that Dunant realized how much an institution devoted to taking care of soldiers in the aftermath of battles was needed. This is the view behind what later became widely known as the Red Cross.

It is also important to take a step back in order to acknowledge the importance of other contributions. In fact, long before the Battle of Solferino and Dunant’s vision others felt the need for a better management of the situation of wounded and fallen soldiers. It was custom, especially before the Napoleonic era, to establish agreements between adversaries regarding their respective medical services. For example, a treaty signed in 1743, during the Austrian War of Succession, and a decree of the French Convention of 1793 had the purpose of respecting both wounded soldiers and the ambulances of either side⁵. In a similar vein, two proponents of the better care of the wounded had similar ideas to those of Dunant: the French pharmacist Henri Arrault and the Neapolitan professor and surgeon Fernando Palasciano⁶. While the first advocated for the improvement of the conditions of field hospitals⁷, Palasciano translated his propositions into practice by caring for wounded soldiers regardless of their nationality, going against the orders of higher officers. Interestingly, Dr. Palasciano not only proposed an international congress⁸ but also organized an essay competition. The essay earning the first prize was by the Swiss doctor Luigi Appia, who advocated for the establishment of a neutral corps for assisting all wounded regardless of their nationality⁹. As it will be mentioned, Dr. Appia will play an active role in the rise of the Red Cross. It can be said that the ideas of the above-mentioned figures all converged

³ François Bugnion, “Birth of an Idea: The Founding of The International Committee of the Red Cross and of the International Red Cross and Red Crescent Movement: From Solferino to the Original Geneva Convention (1859-1864)”, *International Review of the Red Cross* 94, no. 888 (2012): 1301-1302.

⁴ Henry Dunant, *A Memory of Solferino* (Geneva: International Committee of the Red Cross, 1986), 72.

⁵ Giorgio Del Vecchio, “On The History of The Red Cross”, *Journal of The History of Ideas* 24, no. 4 (1963): 578.

⁶ John F. Hutchinson, “Rethinking The Origins of the Red Cross”, *Bulletin of the History of Medicine* 63, no. 4 (1989): 559.

⁷ *Ibid.* 559.

⁸ Giorgio Del Vecchio, “On The History of The Red Cross”, *Journal of The History of Ideas* 24, no. 4 (1963): 578.

⁹ *Ibid.* 579.

into the main values developed by Dunant: impartiality toward patients and neutrality of medical corps in conflict, which together laid the basis of the Red Cross and international humanitarian law respectively¹⁰.

Back in Geneva, in his *A Memory of Solferino*, Dunant narrated what he saw during the Battle of Solferino and explained what he thought to be necessary in case of conflict. He also sent copies of the book to eminent figures, including Gustave Moynier, the chairman of the Geneva Public Welfare Society, which at the time was a private association. Moynier presented what Dunant proposed in his book to the General Commission¹¹ and to the General Assembly of the Geneva Society. The assembly appointed a drafting committee composed of Dunant, Moynier, Dr. Appia, Dr. Maunoir, and General Dufour. It is important to note how the configuration of the committee allowed it to broaden the scope of its action, being composed of two philanthropists, two medical doctors, and a general of the Swiss army, who presided over the meetings¹². This diversity also gave authority to the group. It cannot be doubted that the presence of a high-ranking military officer, General Dufour, conferred upon the five members the prestige they needed. The committee was tasked with the drafting of proposals to be submitted to an international congress convened in Berlin in September 1863¹³. On 17 February 1863 the first meeting of the committee took place and the Permanent International Committee for the Relief of Wounded Soldiers, the father of the International Committee of the Red Cross, was created¹⁴.

Since the congress to be held in Berlin had been annulled, the Geneva Committee decided to convene a congress in Geneva¹⁵. Moreover, Moynier and Dunant were tasked with the drafting of a concordat that would be presented to delegates participating in the newly-convened conference¹⁶. Dunant traveled to the International Statistical Congress in Berlin, where he proposed, on behalf and without the permission

¹⁰ François Bugnion, "Birth of an Idea: The Founding of The International Committee of the Red Cross and of the International Red Cross and Red Crescent Movement: From Solferino to the Original Geneva Convention (1859-1864)", *International Review of the Red Cross* 94, no. 888 (2012): 1304.

¹¹ *Ibid.* 1308.

¹² Pierre Boissier, "The Early Years of the Red Cross", *International Review of the Red Cross*, no. 24 (1963): 122.

¹³ François Bugnion, "Birth of an Idea: The Founding of The International Committee of the Red Cross and of the International Red Cross and Red Crescent Movement: From Solferino to the Original Geneva Convention (1859-1864)", *International Review of the Red Cross* 94, no. 888 (2012): 1309.

¹⁴ *Ibid.* 1311.

¹⁵ *Ibid.* 1314.

¹⁶ Pierre Boissier, "The Early Years of the Red Cross", *International Review of the Red Cross*, no. 24 (1963): 128.

of the Committee of Five¹⁷, as the Geneva Committee was also known, the discussion of neutrality for military medical corps, going beyond what had previously been mandated by the Committee.

The Palais de l'Athénée in Geneva hosted on 26 October 1863 hosted the Geneva International Conference to Study Ways of Overcoming the Inadequacy of Army Medical Services in the Field, introduced by General Dufour¹⁸, who was in the best position, among the five members of the Committee, to deal with delegates from European countries. The Geneva International Conference of 1863 adopted resolutions and recommendations that will constitute for the years to come, the fundamental charter of what would eventually be renamed the International Red Cross and Red Crescent Movement¹⁹. In fact, the Statutes of the International Red Cross were only adopted in October 1928, at the Thirteenth International Conference of the Red Cross in The Hague²⁰. The following 10-article resolution and the three independent recommendations form the document adopted by the 1863 International Conference. The main articles of the document read as follows²¹:

Art. 1. Each country shall have a Committee whose duty it shall be, in time of war and if the need arises, to assist the Army Medical Services by every means in its power.

Art. 3. Each Committee shall get in touch with the Government of its country, so that its services may be accepted should the occasion arise.

Art. 6. On the request or with the consent of the military authorities, Committees may send voluntary medical personnel to the battlefield where they shall be placed under military command.

¹⁷ François Bugnion, "Birth of an Idea: The Founding of The International Committee of the Red Cross and of the International Red Cross and Red Crescent Movement: From Solferino to the Original Geneva Convention (1859-1864)", *International Review of the Red Cross* 94, no. 888 (2012): 1315.

¹⁸ *Ibid.* 1316.

¹⁹ Pierre Boissier, "The Early Years of the Red Cross", *International Review of the Red Cross*, no. 24 (1963): 132.

²⁰ André Durand, "Origin and Evolution of the Statutes of the International Red Cross", *International Review of the Red Cross*, no. 235 (1983): 189.

²¹ ICRC Database, "Resolutions of the Geneva International Conference", *Treaties, States Parties and Commentaries*. Geneva, 26-29 October 1863. Url: <https://ihl-databases.icrc.org/en/ihl-treaties/geneva-res-1863/article-1?activeTab=> (Last accessed on 17 March 2025).

Art. 8. They shall wear in all countries, as a uniform distinctive sign, a white armlet with a red cross.

Independently of the above Resolutions, the Conference makes the following Recommendations:

(a) that Governments should extend their patronage to Relief Committees which may be formed, and facilitate as far as possible the accomplishment of their task.

(b) that in time of war the belligerent nations should proclaim the neutrality of ambulances and military hospitals, and that neutrality should likewise be recognized, fully and absolutely, in respect of official medical personnel, voluntary medical personnel, inhabitants of the country who go to the relief of the wounded, and the wounded themselves;

(c) that a uniform distinctive sign be recognized for the Medical Corps of all armies, or at least for all persons of the same army belonging to this Service; and, that a uniform flag also be adopted in all countries for ambulances and hospitals.

The above articles illustrate that the Conference laid the basis for the establishment of national Committees in each country, their working in cooperation with national governments, the voluntary nature and the distinctive signs of medical personnel, and the neutrality of medical premises and staff. All these points represent the pillars of the Red Cross as it is known today, both at the level of the International Committee and of National Societies.

On a parallel path, Dr. Palasciano highlighted, during one of his lectures in Naples, how the proposals brought forward by the Geneva Committee mirrored his ideas. To the honor of Dr. Palasciano, it must be acknowledged that he humbly accepted the work that was taking place in Geneva²². However, the work of the Permanent International Committee for the Relief of Wounded Soldiers was to acquire greater

²² Giorgio Del Vecchio, "On The History of The Red Cross", *Journal of The History of Ideas* 24, no. 4 (1963): 581.

importance over the following decades.

The first concrete achievement of the 1863 Geneva Conference was the creation, between 1863 and the following year, of National Red Cross Societies in Württemberg, the Grand Duchy of Oldenburg, Belgium, Prussia, Italy and France (the latter thanks to the personal impulse of Duntant)²³. The very first Red Cross organization outside Geneva was founded in Stuttgart, at the time capital of the Kingdom of Württemberg, in December 1863, less than two months after the 1863 Geneva Conference²⁴. It is interesting to note that the ancestor of the present German Red Cross Society is the Central Committee of German Societies for the Care of Wounded and Sick Soldiers in the Field, which in 1869 reunited the various Societies of German States, predating the unification of the German Reich²⁵.

1.1.2 The Geneva Convention of 1864

Due to the non-binding nature of the 1863 Conference Resolutions, what was thus needed was a diplomatic conference that would codify the Resolutions and make it binding international law for the States Parties to the treaty. Moynier and General Dufour prepared a draft text that was sent along with the letter of invitation sent to the diplomatic delegates who later gathered at the Geneva Town Hall, from 8 to 22 August 1864²⁶. Formally, the Conference was organized by the Swiss Federal Council²⁷, i.e. the Swiss government. Initially, the signing of the Convention was scheduled for August 18th but was postponed to the 22nd in order to give time to all delegates to receive from their government the authorization to sign²⁸. The Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, as the 1864 Geneva Convention is

²³ François Bugnion, "Birth of an Idea: The Founding of The International Committee of the Red Cross and of the International Red Cross and Red Crescent Movement: From Solferino to the Original Geneva Convention (1859-1864)", *International Review of the Red Cross* 94, no. 888 (2012): 1321.

²⁴ Stefanie Haumer, "1863: The Creation of the First National Society at the Beginning of the Movement's History", *International Review of the Red Cross* 94, no. 888 (2012): 1339.

²⁵ Deutsches Rotes Kreuz, "Gemeinsam für eine große Sache". Url: <https://www.drk.de/das-drk/geschichte/das-drk-von-den-anfaengen-bis-heute/1850/1869/> (Last accessed on 19 March 2025).

²⁶ François Bugnion, "Birth of an Idea: The Founding of The International Committee of the Red Cross and of the International Red Cross and Red Crescent Movement: From Solferino to the Original Geneva Convention (1859-1864)", *International Review of the Red Cross* 94, no. 888 (2012): 1323.

²⁷ André Durand, "The Geneva Conference of August 1864 as seen by the Geneva Press", *International Review of the Red Cross*, no. 271 (1989): 282.

²⁸ *Ibid.* 304.

officially known, was signed by representatives of twelve European states, some of which do not exist as such anymore. The States Parties to the Convention were Baden, Belgium, Denmark, France, Hesse, Italy, the Netherlands, Portugal Prussia, Spain, Switzerland, and Württemberg²⁹.

What is interesting is that for the first time the discussion for the adoption of an international treaty did not concern the settlement of a dispute among states. On the contrary, the Conference reunited in Geneva representatives of States willing to create and be bound by rules regarding the condition of medical services and wounded soldiers in the event of a war³⁰. Negotiations had been more arduous regarding the neutral status to be granted to nursing staff sent by National Societies to the battlefield, but in the end, a compromise was reached³¹. The most salient articles of the Convention for the Amelioration of the Condition of the Wounded in Armies in the Field read as follows³²:

Article 1. Ambulances and military hospitals shall be recognized as neutral, and as such, protected and respected by the belligerents as long as they accommodate wounded and sick.

Neutrality shall end if the said ambulances or hospitals should be held by a military force.

This article reflects what was customary practice during *Ancien Régime* wars, that is to designate and protect inviolable posts for medical purposes³³. However, the importance of this article lies in the fact that for the first time what previously was only practice (and not during the 19th century) was translated into an international law act.

²⁹ ICRC Database, "Convention for the Amelioration of the Condition of the Wounded in Armies in the Field", *Treaties, States Parties and Commentaries*, Geneva, 22 August 1864. States, Parties and Signatories. Url: <https://ihl-databases.icrc.org/en/ihl-treaties/gc-1864/state-parties?activeTab=#footnote-1> (Last accessed on 18 March 2025).

³⁰ François Bugnion, "Birth of an Idea: The Founding of The International Committee of the Red Cross and of the International Red Cross and Red Crescent Movement: From Solferino to the Original Geneva Convention (1859-1864)", *International Review of the Red Cross* 94, no. 888 (2012): 1324.

³¹ *Ibid.* 1325.

³² ICRC Database, "Convention for the Amelioration of the Condition of the Wounded in Armies in the Field", *Treaties, States Parties and Commentaries*, Geneva, 22 August 1864. Url: <https://ihl-databases.icrc.org/en/ihl-treaties/gc-1864?activeTab=historical> (Last accessed on 18 March 2025).

³³ François Bugnion, "Birth of an Idea: The Founding of The International Committee of the Red Cross and of the International Red Cross and Red Crescent Movement: From Solferino to the Original Geneva Convention (1859-1864)", *International Review of the Red Cross* 94, no. 888 (2012): 1312.

Art. 2. Hospital and ambulance personnel, including the quarter-master's staff, the medical, administrative and transport services, and the chaplains, shall have the benefit of the same neutrality when on duty, and while there remain any wounded to be brought in or assisted.

It goes without saying that this second article mirrors the first one, with respect to the neutral status of all personnel involved in relief and linked operations on the battlefield.

Art. 5. Inhabitants of the country who bring help to the wounded shall be respected and shall remain free. Generals of the belligerent Powers shall make it their duty to notify the inhabitants of the appeal made to their humanity, and of the neutrality which humane conduct will confer.

The presence of any wounded combatant receiving shelter and care in a house shall ensure its protection. An inhabitant who has given shelter to the wounded shall be exempted from billeting and from a portion of such war contributions as may be levied.

The importance of this article lies in the protection of civilians involved in fighting. However, since the Convention is strictly concerned with the protection of wounded soldiers, civilians are only taken into account when bringing relief to them.

Art. 6. Wounded or sick combatants, to whatever nation they may belong, shall be collected and cared for.

Commanders-in-Chief may hand over immediately to the enemy outposts enemy combatants wounded during an engagement, when circumstances allow and subject to the agreement of both parties.

Those who, after their recovery, are recognized as being unfit for further service, shall be repatriated.

The others may likewise be sent back, on condition that they shall not again, for the duration of hostilities, take up arms.

Evacuation parties, and the personnel conducting them, shall be considered as being absolutely neutral.

This sixth article, especially in the first paragraph, underlines that once a soldier is wounded, this should not be considered as fighting for one of the parties in the conflict, but just considering his human nature in the time of suffering. Also, the article clearly recalls what Dunant narrates in his *A Memory of Solferino* about the women of Castiglione, who treated anyone as their own brother, without taking into account the nationality of the wounded³⁴. Moreover, it should also be noted that the article indicates that once wounded soldiers are in proper conditions for going back to their comrades they should not take part in the hostilities again. This would suggest not only the aim of reducing the suffering of the wounded soldiers but also an intention to discourage the continuation of the fighting.

Art. 7. A distinctive and uniform flag shall be adopted for hospitals, ambulances and evacuation parties. It should in all circumstances be accompanied by the national flag.

An armlet may also be worn by personnel enjoying neutrality but its issue shall be left to the military authorities.

Both flag and armlet shall bear a red cross on a white ground.

This article designates the Red Cross for what it looks like. Not only it stresses the importance of a recognizable and universal sign for indicating physical places and medical personnel, but also designates that sign: “a red cross on a white ground”. The emblem had been adopted by the 1863 Geneva Conference, following a proposal by Dr. Appia³⁵. It was to be a symbol of neutrality, derived by inverting the Swiss flag, free of any religious meaning³⁶. However, some Muslims argued it could be linked to the Crusades and the ICRC first used the Red Crescent, the reverse of the Ottoman flag, during the Russo-Turkish War³⁷.

Articles 8, 9, and 10 concern diplomatic aspects such as the implementation and ratification of the Convention. For the first time violence in wars was limited not for reasons of religious sentiments, but because international law would bind states to do

³⁴ Henry Dunant, *A Memory of Solferino* (Geneva: International Committee of the Red Cross, 1986), 72.

³⁵ “L’Origine du Signe de la Croix Rouge”, *Revue Internationale de la Croix-Rouge* no. 426, (Juin 1872): 459.

³⁶ Ann M. Torres, “International Committee of the Red Cross: Emblem of Humanity”, *Marketing intelligence & planning* 28, no. 2 (2010): 227.

³⁷ *Ibid.* 227.

so³⁸. The moment of the signing (and of the ratification by State Parties) meant that the first nucleus of what would later become International Humanitarian Law was born³⁹.

1.1.3 The Two World Wars

The period between the signing of the 1864 Geneva Convention and the outbreak of the First World War saw the ICRC working more in its Geneva headquarters than on the field⁴⁰. Some years after the signing of the 1864 Geneva Convention, the ICRC sent just one mission to the field, during the Eastern Crisis of 1875⁴¹. Throughout the Great War, the work of the ICRC was mainly executed by one of its agencies, the *Agence Internationale des Prisonniers de Guerre* (AIPG), which operated on the field while the ICRC created its first delegations in order to establish relations with collaborators outside Switzerland⁴². WWI posed two challenges to the Committee: on the one hand, it was forced to shift its focus from European conflict to conflicts around the world, on the other, it needed to adapt to new ways of making war, which also produced new categories of victims⁴³.

After the war, the League of Red Cross Societies, renamed the International Federation of Red Cross and Red Crescent Societies after 1991, was founded by the National Societies of the USA, the UK, France, Japan, and Italy⁴⁴. At present it would sound contrary to the purposes of the Red Cross, but, initially, the League, being formed by the winning powers of the the First World War, was not keen to include peers from defeated countries⁴⁵. The result of the founding of the League was the so-called “Red Cross War”⁴⁶: in fact, the League, with its peacetime work, complemented the focus on

³⁸ François Bugnion, “Birth of an Idea: The Founding of The International Committee of the Red Cross and of the International Red Cross and Red Crescent Movement: From Solferino to the Original Geneva Convention (1859-1864)”, *International Review of the Red Cross* 94, no. 888 (2012): 1327.

³⁹ *Ibid.* 1327.

⁴⁰ Daniel Palmieri, “An Institution Standing the Test of Time? A Review of 150 Years of the History of the International Committee of the Red Cross”, *International Review of the Red Cross* 94, no. 888 (2012): 1277.

⁴¹ *Ibid.* 1277.

⁴² *Ibid.* 1278.

⁴³ *Ibid.* 1279.

⁴⁴ Melanie Oppenheimer *et al.*, “Resilient Humanitarianism? Using Assemblage to reevaluate the History of the League of the Red Cross Societies”, *The International History Review* 43, no. 3 (2012): 579.

⁴⁵ Daniel Palmieri, “An Institution Standing the Test of Time? A Review of 150 Years of the History of the International Committee of the Red Cross”, *International Review of the Red Cross* 94, no. 888 (2012): 1280.

⁴⁶ *Ibid.* 1280.

war of the Committee⁴⁷. The League grew rapidly: in 1948 it comprised 65 members⁴⁸ which at present became 191⁴⁹. In the end, both the Committee and the League survived the clash, in particular because war violence did not cease to exist and both could operate in their respective fields⁵⁰.

It may sound regrettable, but the ICRC survived because during the 1930s new wars between states broke out: the Japanese invasion of the Shanghai province, the war between Bolivia and Paraguay, and the Italo-Abyssinian War⁵¹. In these contexts, delegates could start the traditional ICRC activities, such as camp visits, correspondence, and repatriation of war prisoners. Similarly, the Spanish Civil War, the first involvement of the ICRC in a civil war, saw the professionalization of the figure of the delegate⁵². It could be argued that the experience of the Spanish Civil War “trained” the delegates who would continue working for the Committee. Differently from what happened during WWI, this decade saw a shift of power from the AIPG to the ICRC: it established commissions for each of the situations it had to deal with⁵³.

During the Second World War, as already occurred during the First, the scope of activity of the Committee significantly increased. For example, in 1939 the ICRC had at its disposal seven *ad hoc* bodies, a number that arose to eighteen in 1946, and it also began to acquire ships and trucks to fulfill its missions⁵⁴. Also, the attitude of the ICRC during the conflict attracted criticism because of its silence and inaction regarding violations of international humanitarian law, the Holocaust, the situation of Soviet prisoners of war in Germany, and the issuing of travel documents to war criminals, to cite a few of the allegations⁵⁵. The inability of the ICRC to act was derived at the time

⁴⁷ Melanie Oppenheimer *et al.*, “Resilient Humanitarianism? Using Assemblage to reevaluate the History of the League of the Red Cross Societies”, *The International History Review* 43, no. 3 (2012): 579-580.

⁴⁸ Laszlo Ledermann, “The International Organization of the Red Cross and the League of Red Cross Societies”, *The American Journal of International Law* 42, no. 3 (1948): 638.

⁴⁹ IFRC, “About National Societies”. Url: <https://www.ifrc.org/who-we-are/international-red-cross-and-red-crescent-movement/about-national-societies> (Last Accessed on 19 March 2025).

⁵⁰ Daniel Palmieri, “An Institution Standing the Test of Time? A Review of 150 Years of the History of the International Committee of the Red Cross”, *International Review of the Red Cross* 94, no. 888 (2012): 1280.

⁵¹ *Ibid.* 1281.

⁵² *Ibid.* 1282.

⁵³ *Ibid.* 1283.

⁵⁴ *Ibid.* 1283.

⁵⁵ *Ibid.* 1285.

from its legal status, being it just a Swiss society⁵⁶. A concrete example of reprehensible conduct by ICRC staff is represented by the findings of the US government, which indicated that 18 staff members of the Committee were engaged in espionage activities. Following investigations by the Committee itself, three of them were found responsible for these acts⁵⁷. In the context of wars of decolonization, after complete initial negligence of the question, the ICRC often took the side of the “colonized against the colonizers”⁵⁸. On the other hand, the successes of the Committee during the war must be acknowledged. For instance, despite all the obstacles, delegates ICRC could still engage in dangerous missions in dangerous contexts⁵⁹.

1.1.4 The Post-WWII Era

The years following WWII, saw the ICRC almost declaring bankruptcy and a crisis in its governance. Despite the difficult situation, the ICRC could achieve significant goals during the first two post-conflict decades. In fact, not only did the Committee expand its presence in various regions of the globe, but also, above all, saw the signing of the Four Geneva Conventions of August 1949, which took place in the immediate aftermath of the war⁶⁰. The Four 1949 Geneva Conventions have been updated in 1977 with the adoption of the Two Additional Protocols⁶¹. The most striking aspect lies in the fact that the Additional Protocol II regulated non-international armed conflicts, i.e. civil wars, which was until then regarded as a purely internal matter of the concerned country⁶². In 2005 a Third Protocol has been signed, which foresaw the adoption of an additional emblem⁶³.

⁵⁶ International Committee of the Red Cross, “Our History”. Url: <https://www.icrc.org/en/our-history> (Last accessed on 19 March 2025).

⁵⁷ Francois Bugnion, “ICRC action during the Second World War”, *International Review of the Red Cross*, no. 317 (1997): 171.

⁵⁸ Daniel Palmieri, “An Institution Standing the Test of Time? A Review of 150 Years of the History of the International Committee of the Red Cross”, *International Review of the Red Cross* 94, no. 888 (2012): 1284.

⁵⁹ Jacques Freymond, “El Comité Internacional de la Cruz Roja y la Protección de las Víctimas de la Guerra”, *Revista Internacional de la Cruz Roja*, no. 130 (1994): 525.

⁶⁰ Daniel Palmieri, “An Institution Standing the Test of Time? A Review of 150 Years of the History of the International Committee of the Red Cross”, *International Review of the Red Cross* 94, no. 888 (2012): 1286-1288.

⁶¹ Paola Gaeta *et al.*, Cassese’s International Law (Oxford: Oxford University Press, 2020): 372.

⁶² Igor P. Blishchenko, “Adoption of the 1977 Additional Protocols”, *International Review of the Red Cross*, no. 320 (1997): 511.

⁶³ “Adoption of an Additional Distinctive Emblem”, *International Review of the Red Cross* 88, no. 186 (2006): 187.

The *modus operandi* of the ICRC changed as a result of the Six Day War and the Biafran War, both fought in 1967⁶⁴. Since then, the ICRC has been “permanently mobilized”⁶⁵, with the effect of a significant increase in terms of staff. During the 1970s and 1980s, some institutional changes allowed the Committee to tackle new challenges more easily. It is sufficient to say that the 1990s decade only required the ICRC to take action during the Second Gulf War, the civil wars in Somalia and in the former Yugoslavia, among the others. Moreover, the Committee witnessed, almost without the proper means to act, the Rwandan Genocide of 1994. All these happenings resulted in the ICRC expanding, rapidly and significantly, its financial and material weight⁶⁶.

At present, the International Committee of the Red Cross is a *sui generis* institution, which has its roots in the 1863 Permanent International Committee for the Relief of Wounded Soldiers. Its uniqueness allowed it to survive for more than 160 years. In addition, not only have its first humanitarian goals always been kept, but the scope of action of the Committee not only includes wounded soldiers, being now far beyond Dunant’s initial vision. This is perfectly resumed by its motto: *Inter arma caritas*, i.e. “in war, charity”⁶⁷.

1.2 The Position of the International Committee of the Red Cross within the Movement

As already explained, the International Committee of the Red Cross was founded in 1863. It derived from the Geneva Public Welfare Society, of which the Permanent International Committee for the Relief of Wounded Soldiers was born as a sub-committee⁶⁸. In fact, it was the General Assembly of the Geneva Society that appointed the five members of the committee⁶⁹. Interestingly enough, Dunant, the moral

⁶⁴ Daniel Palmieri, “An Institution Standing the Test of Time? A Review of 150 Years of the History of the International Committee of the Red Cross”, *International Review of the Red Cross* 94, no. 888 (2012): 1288.

⁶⁵ *Ibid.* 1289.

⁶⁶ *Ibid.* 1292-1293.

⁶⁷ Statutes of the International Committee of the Red Cross, art. 3, par. 4.

⁶⁸ David P. Forsythe, “The ICRC as seen through the Pages of the Review, 1869-1913: Personal Observations”, *International Review of the Red Cross* 100, no. 907-909 (2018): 53.

⁶⁹ François Bugnion, “Birth of an Idea: The Founding of The International Committee of the Red Cross and of the International Red Cross and Red Crescent Movement: From Solferino to the Original Geneva Convention (1859-1864)”, *International Review of the Red Cross* 94, no. 888 (2012): 1309.

father of the Red Cross, was among those appointed by the General Assembly but was not a member of the Geneva Society⁷⁰.

At present, the ICRC can be considered the highest Red Cross authority, but its position within the broader Red Cross must be clarified. Since the earlier days, the ICRC, and in particular Moynier, wanted National Societies to be autonomous, if not independent.⁷¹ The only legal bond between National Societies and the ICRC was constituted by the 1863 Conference Resolutions⁷², which acted as the “constitution” of the Red Cross Movement⁷³. This fragmentation could also result in the disappointment of the ICRC, for example when the Austrian Red Cross did not send aid during the Balkans Wars. Similarly, this resulted in the praise by Moynier of certain National Societies, often at the detriment of others⁷⁴. Strangely enough, during the Franco-Prussian War, Moynier saw how impossible it was for National Societies to act impartially, yet he still argued in favor of a decentralized Movement⁷⁵.

Starting from Moynier’s days, the ICRC had acted as a central “intermediary”⁷⁶ between the decentralized National Societies, nor it had formal power over them. The International Red Cross and Red Crescent Movement is divided into three main branches: the National Red Cross and Red Crescent Societies, the ICRC, and the International Federation of Red Cross and Red Crescent Societies, respectively⁷⁷. There is no central authority and none of these entities prevails over the others. The components of the Movement meet, along with the States Parties to the Geneva Conventions of 1929 and 1949⁷⁸ at the International Conference of the Red Cross and Red Crescent, which usually takes place every four years⁷⁹. The relations of the ICRC with the Movement are regulated by the Committee’s Statute, which states that it shall

⁷⁰ David P. Forsythe, “The ICRC as seen through the Pages of the Review, 1869-1913: Personal Observations”, *International Review of the Red Cross* 100, no. 907-909 (2018): 53.

⁷¹ *Ibid.* 57-58.

⁷² *Ibid.* 59.

⁷³ Pierre Boissier, “The Early Years of the Red Cross”, *International Review of the Red Cross*, no. 24 (1963): 132.

⁷⁴ David P. Forsythe, “The ICRC as seen through the Pages of the Review, 1869-1913: Personal Observations”, *International Review of the Red Cross* 100, no. 907-909 (2018): 60.

⁷⁵ *Ibid.* 61.

⁷⁶ *Ibid.* 58.

⁷⁷ Statutes of the International Red Cross and Red Crescent Movement, art. 1, par. 1.

⁷⁸ *Ibid.* art. 1, par. 3.

⁷⁹ *Ibid.* art. 11, par. 1.

maintain “close contact” with both National Societies and the Federation, according to the Statutes of the Movement⁸⁰.

The Federation, which prior to 1991 was known as the League⁸¹, is an independent humanitarian organization⁸², it has legal personality and reunites National Red Cross and Red Crescent Societies⁸³. At the time of writing, the Federation is formed by 191 National Societies⁸⁴. Most of these Societies are private, however they are not fully independent of their governments⁸⁵, since they need to cooperate with the public authorities of their respective countries⁸⁶. For example, the legal statute of the Italian Red Cross Association, which is an association of public interest⁸⁷, is defined in its Statutes as a legal entity under private law⁸⁸.

The deliberative body of the Movement as a whole is the International Conference, which reunites the delegations of both the members of the Movement and the States Parties to the Geneva Conventions, which deliberate all together “upon humanitarian matters of common interest”⁸⁹. It is interesting to note that States Parties to the Geneva Conventions have a say during the International Conference, but are not members of the Movement as such⁹⁰.

1.3 The Legal Status of the International Committee of the Red Cross

From a legal point of view, the International Committee of the Red Cross is a *sui generis* organization. According to its Statute, the ICRC enjoys a two-fold legal status.

⁸⁰ Statutes of the International Committee of the Red Cross, art. 5.

⁸¹ Melanie Oppenheimer *et al.*, “Resilient Humanitarianism? Using Assemblage to reevaluate the History of the League of the Red Cross Societies”, *The International History Review* 43, no. 3 (2012): 579.

⁸² Statutes of the International Red Cross and Red Crescent Movement, art. 6, par. 2.

⁸³ *Ibid.* art. 6, par. 1.

⁸⁴ IFRC, “About National Societies”. Url: <https://www.ifrc.org/who-we-are/international-red-cross-and-red-crescent-movement/about-national-societies> (Last Accessed on 20 March 2025).

⁸⁵ David P. Forsythe, “The Red Cross as Transnational Movement: Conserving and Changing the Nation-State System”, *International Organization* 30, no. 4 (1976): 609.

⁸⁶ Statutes of the International Red Cross and Red Crescent Movement, art. 3, par. 2.

⁸⁷ By-Laws of the Italian Red Cross, art. 2, par. 5.

⁸⁸ By-Laws of the Italian Red Cross, art. 2, par. 4.

⁸⁹ Statutes of the International Red Cross and Red Crescent Movement, art. 8.

⁹⁰ David P. Forsythe, “The Red Cross as Transnational Movement: Conserving and Changing the Nation-State System”, *International Organization* 30, no. 4 (1976): 611.

In fact, it is internally governed by “Article 60 and following of the Swiss Civil Code”, but, most importantly, it is compared to an international organization enjoying international legal personality⁹¹. Not only it enjoys domestic legal personality under Swiss municipal law but most states in which it operates have likewise regulated its status, as will be illustrated. The distinctive character of the ICRC is also motivated by the fact that, differently from most IOs, it was founded by private individuals as a Swiss law private association⁹². It is argued that, due to the role that States play in its activities, lies between an IO and an NGO⁹³.

At the international level, the ICRC has been granted observer status at the UN General Assembly⁹⁴. The UN Charter allows the ECOSOC to establish relations with NGOs and IOs⁹⁵ and this is exactly what happened to the ICRC. However, the UN General Assembly acknowledged the increasing importance of the ICRC and allowed it to “participate in the sessions and the work of the General Assembly in the capacity of observer”⁹⁶. This status has only been granted to only other four IOs which are not intergovernmental, among them is the aforementioned Federation⁹⁷. It goes without saying that there is, at least to a great extent, a coincidence between UN members and State Parties to the Geneva Conventions. Hence, the willingness of UN members to enhance the ICRC’s position within the UNGA is reflected by the fact that States, and also other IOs, take the Committee into great consideration. For this reason, many States have concluded bilateral agreements with the ICRC concerning privileges and immunities, similar to what usually happens in relation to IOs⁹⁸.

At the national level, the ICRC, for the fulfillment of its tasks, enjoys privileges and immunities in most countries in which it is present. They are based on the principle of functionality⁹⁹, which means that they are not granted for their own sake. To this end, it usually establishes them with the concerned State by means of a bilateral agreement,

⁹¹ Statutes of the International Committee of the Red Cross, art. 2.

⁹² Els Debuf, “Tools to do the job: the ICRC’s Legal Status, Privileges and Immunities”, *International Review of the Red Cross* 97, no. 897-898 (2015): 323.

⁹³ *Ibid.* 324.

⁹⁴ Paola Gaeta *et al.*, *Cassese’s International Law* (Oxford: Oxford University Press, 2020): 175.

⁹⁵ Charter of the United Nations, art. 71.

⁹⁶ A/RES/45/6.

⁹⁷ United Nations, “Intergovernmental and Other Organizations”. Url: <https://www.un.org/en/about-us/intergovernmental-and-other-organizations> (Last accessed on 20 March 2025).

⁹⁸ Els Debuf, “Tools to do the job: the ICRC’s Legal Status, Privileges and Immunities”, *International Review of the Red Cross* 97, no. 897-898 (2015): 327-329.

⁹⁹ *Ibid.* 323.

most of which also define its domestic legal personality¹⁰⁰. The Committee can engage itself in such agreements thanks to its international legal personality. In a few cases, privileges and immunities are simply regulated by municipal law and not via bilateral agreements. Such agreements reflect what is set by both the Vienna Convention on Diplomatic Relations and the Conventions on the Privileges and Immunities of the United Nations¹⁰¹. In particular, the ICRC operates respecting three Fundamental Principles: neutrality, independence, and confidentiality. Moreover, privileges and immunities can be granted either to the ICRC or to individuals. Importantly, individuals enjoy such a position just for the sake of the Committee and not for their own¹⁰².

Administrative and financial privileges are granted to the ICRC in order to enable it to carry out its management in the smoothest way possible and include, among others, the possibility of using any currency, the exemption from direct and indirect taxes and duties, freedom of choosing the means of communication, and treatment comparable to those enjoyed by diplomatic missions¹⁰³. In a similar vein, the ICRC enjoys privileges and immunities such as the inviolability of its premises and archives, immunity from legal processes, and freedom to communicate and use sealed bags. Mirroring these are the privileges and immunities enjoyed by ICRC personnel, whose person and residence are inviolable, immune from legal proceedings, exempted from fees and national obligations, and free to travel in the territory of the country. Additionally, the status of the head of the ICRC's mission is compared to those of diplomatic agents under the Vienna Convention of 1961¹⁰⁴.

It is important to note that these privileges and immunities are not unlimited. As already specified, they are designed according to the principle of functionality, which implies they need to be accorded for improving and easing the work of the Committee in the various contexts in which it operates. In particular, any abuse of these privileged positions must be avoided and, to this end, the ICRC can decide to revoke such immunities, if deemed necessary¹⁰⁵. In case a dispute arises, the usual settlement mechanism is negotiation between the Committee and the authorities of the country

¹⁰⁰ *Ibid.* 335.

¹⁰¹ *Ibid.* 331-332.

¹⁰² *Ibid.* 333-334.

¹⁰³ *Ibid.* 335-336.

¹⁰⁴ *Ibid.* 339-340.

¹⁰⁵ *Ibid.* 342.

concerned. Importantly, good faith is an essential element of negotiation as a way of preserving the ICRC's work and its guiding principles. The most notable exception applies with regard to labor law: ICRC's staff employed under Swiss law can have access, when needed, to Swiss labor courts¹⁰⁶.

All the privileges, facilities, and immunities listed above are vital for the work of the ICRC as an international organization. Moreover, they are also needed for the delicate role the ICRC performs. The three Fundamental principles that guide the Committee's action, namely neutrality, independence, and confidentiality, help understand why such privileges are even more essential for the ICRC than for "ordinary" IOs. For example, when the Committee acts in its capacity as the intermediary between two parties in a conflict, confidentiality is essential in that it allows the ICRC to be recognized and trusted by all sides. Hence, privileges and immunities are fundamental: the use of sealed bags or the possibility to choose the most suitable means of communication are fundamental for ensuring confidentiality.

1.4 Conclusion

As it has been shown, the International Committee of the Red Cross is a unique actor on the international arena. Its uniqueness derives from several factors. From an historical point of view, it is relevant that in the XIX century delegates from different countries agreed to an international treaty that bound them, for the first time, to the respect of certain agreed standards in the conduct of hostilities. From a legal perspective, by contrast, the Committee is *sui generis* in its nature and its international legal personality, while accepted in the practice by many, is still debated by others. Instead, for what concerns the public opinion, it is not always easy to explain what the Committee is and its position within the Movement. Arguably, this confusion derives from the presence, although to different degrees, of National Societies in the lives of virtually anyone in the world.

Hence, there is always misunderstanding in relation to the work of the ICRC.. For this reason, it is important to investigate more in depth the work of the Committee

¹⁰⁶ *Ibid.* 343.

worldwide, with particular attention to what it has done over the centuries and to what it is doing for the sake of international humanitarian law.

2. International Humanitarian Law and the role of the International Committee of the Red Cross

The various tasks the Committee is called to perform are listed in Article 4 of the Statutes of the International Committee of the Red Cross. Among them, in particular for the sake of this thesis, the most important is the “work for the faithful application of international humanitarian law”¹⁰⁷. Its other functions have, to different extents, moral, bureaucratic, and practical aspects, but it can be argued that are complementary to the respect and application of IHL. However, as it will be shown, the Committee currently performs duties that go beyond those explicitly stated by its own Statutes and many of them can be found in other documents, most notably in the Conventions and their Additional Protocols.

2.1 International Humanitarian Law

2.1.1 The General Context

International humanitarian law is the law regulating the conduct of hostilities during armed conflicts. This explains why it is also called *jus in bello*, which can be literally translated from Latin as “the law during the war”. Even though the two branches of law might sometimes overlap, a distinction needs to be made here between *jus in bello* and *jus ad bellum* (the “right to do war”). In fact, the latter regulates when it is lawful for a state to resort to the use of armed force (for instance, in case of self-defense), while the former merely concerns what can be done in armed conflicts¹⁰⁸. On the one hand, the aim of *jus ad bellum* is to ensure peace by limiting the legality, and therefore the possibility, of resorting to armed force and, on the other hand, *jus in bello* has the purpose of limiting human suffering by imposing constraints and setting the boundaries beyond which the belligerent parties must not go¹⁰⁹.

¹⁰⁷ Statutes of the International Committee of the Red Cross, art. 4, par. 1, letter c.

¹⁰⁸ Christian Tomuschat, “Mitigating the Effects of Armed Conflict: Humanitarian Law”, in *Human Rights: Between Idealism and Realism*, ed. Christian Tomuschat (Oxford: Oxford University Press, 2014): 337.

¹⁰⁹ Cordula Droege, “International Humanitarian Law and Peace: A Brief Overview”, *International Review of the Red Cross*, no. 927 (2025): 995-996.

Another important point to be clarified is the relationship between international humanitarian law and human rights law, which aims to guarantee basic standards of human rights at all times, not only in case of conflict. Both these two fields of law are considered to be specialized bodies of international law¹¹⁰. Moreover, IHL could be regarded by some as a branch of international human rights law¹¹¹, since it is meant to combine the necessity of maintaining basic human rights with the conduct of hostilities. Perhaps, the fact that human rights law only concerns the protection of people while humanitarian law also takes into account military necessity is one of the major points of friction between the two branches. With respect to their relationship, the International Court of Justice, in a 2004 Advisory opinion concerning the building of a wall in the Occupied Palestinian Territory, clarified that international humanitarian law may cover certain rights, that some others may fall under international human rights law provisions, and that “others may be matters of both these branches of international law”¹¹². Correspondingly, according to the principle *lex specialis derogat legi generali*, it can be concluded that in certain contexts it is IHL that prevails over human rights law, whose content is still applicable only through the lens of international humanitarian law¹¹³. In a similar vein, it is significant that the similarities and differences between IHL and human rights law have brought to define these two bodies of law as “concurrent, coexisting, consistent, convergent, coterminous, congruent, confluent, corresponding, cumulative, complementary, compatible, cross-fertilizing, contradictory, competitive, or even in conflict”¹¹⁴. It follows that many issues may arise regarding the applicability and enforcement of both international humanitarian law and international human rights law and that uncertainty in this field might simply impede the limitation of human suffering.

¹¹⁰ Paola Gaeta *et al.*, *Cassese’s International Law* (Oxford: Oxford University Press, 2020): 375-376.

¹¹¹ Christian Tomuschat, “Mitigating the Effects of Armed Conflict: Humanitarian Law”, in *Human Rights: Between Idealism and Realism*, ed. Christian Tomuschat (Oxford: Oxford University Press, 2014): 338.

¹¹² Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, *I.C.J. Reports* 2004, p. 178.

¹¹³ Derek Jins, “International Human Rights Law in Time of Armed Conflict”, in *The Oxford Handbook of International Law in Armed Conflict*, eds. Andrew Clapham and Paola Gaeta (Oxford: Oxford University Press, 2014): 663-665.

¹¹⁴ Andrew Clapham, “The Complex Relationship between the Geneva Conventions and International Human Rights Law”, in *The 1949 Geneva Conventions: A Commentary*, eds. Andrew Clapham, Paola Gaeta, and Marco Sassòli (Oxford: Oxford University Press, 2015): 735.

Modern international humanitarian law is the result of various streams of contributions, mainly dating to the 19th century. Reference to prior philosophical thinking and laws must nevertheless be made. In fact, it can be argued that during the Middle Ages the first nucleus of international humanitarian law was represented by the concept of “just war” promoted by the Church¹¹⁵. Subsequently, the 17th-century philosopher Grotius, thought to be the father of what is now international law, in his “*De iure belli ac pacis*”, further implemented both *jus ad bellum* and *jus in bello*¹¹⁶. Moreover, thinkers such as Locke and Rousseau introduced the concept of human rights¹¹⁷, which is the foundation of both branches of law. All these concepts, however, have a few, if any, aspects in common with what is now international humanitarian law.

The first tangible contribution, relevant both in terms of time and of the effects it had, is represented by the 1864 Geneva Convention, which has later been replaced and expanded in its scope by the Four Geneva Conventions of 1949 and the Additional Protocols of 1977 and 2005. The Four Conventions and the Three Protocols, which together form the core of international humanitarian law at present,¹¹⁸ have been developed by and under the auspices of the International Committee of the Red Cross, whose reputation as the custodian of international humanitarian law is today commonly spread around the world. In the same years as the first Geneva Convention, on the occasion of the American Civil War, what is now international humanitarian law underwent further development. In fact, president Lincoln’s decree “General Orders, No. 100: Instructions for the Government of Armies of the United States in the Field”, took the so-called Lieber Code as its main source with the aim of regulating the conduct of hostilities, at least as far as his side was concerned¹¹⁹. Mention must also be made to the 1868 Declaration of St Petersburg, the first international agreement to legally prohibit the use of weapons, namely of rifle shells¹²⁰.

¹¹⁵ Louise Doswald-Beck and Sylvain Vite, “International Humanitarian Law and Human Rights Law”, *International Review of the Red Cross*, no. 293 (1993): 95.

¹¹⁶ Michael Bothe *et al.*, “Historical Development and Legal Basis”, in *The Handbook of International Humanitarian Law, Fourth Edition*, ed. Dieter Fleck (Oxford: Oxford University Press, 2021): 28.

¹¹⁷ Louise Doswald-Beck and Sylvain Vite, “International Humanitarian Law and Human Rights Law”, *International Review of the Red Cross*, no. 293 (1993): 102.

¹¹⁸ Paola Gaeta *et al.*, *Cassese’s International Law* (Oxford: Oxford University Press, 2020): 374.

¹¹⁹ *Ibid.* 368.

¹²⁰ Michael Bothe *et al.*, “Historical Development and Legal Basis”, in *The Handbook of International Humanitarian Law, Fourth Edition*, ed. Dieter Fleck (Oxford: Oxford University Press, 2021): 31.

Of major importance are also the various Hague Conventions. They consist of a number of conventions signed on the occasion of two international conferences that were held in The Hague in 1899 and 1907. There, the 1874 Brussels Declaration was taken as a starting point¹²¹. The importance of the Declaration, officially named as the Project of an International Declaration concerning the Laws and Customs of War, lies in the fact that for the first time issues such as the occupation of the territory of another state and the treatment of prisoners of war and civilians were tackled¹²². As the official name indicates, the Declaration was a project and has never been ratified. However, its provisions were codified by the *Institut de Droit International* in what is known as the Oxford Manual, a non-binding document that had a great influence and contained many of the provisions of the Hague Conventions¹²³.

Importantly, at the 1899 Conference the so-called Martens clause was formulated and included in the Preamble to the 1899 Hague Conventions. The text of the Clause reads “populations and belligerents remain under protection and empire of the principles of international law, as they result from the usages established between civilized nations, from the laws of humanity, and the requirements of public conscience”¹²⁴. For the first time the concepts of laws of humanity and public conscience were used for remarking the need for protection of both civilians and military personnel involved in armed conflicts. However, the vagueness and the relative nature of such concepts have brought with time to confusion and even opposite interpretations. Moreover, what was regrettable about all the Conventions is that they contain the *si omnes* clause, which renders the provisions therein applicable only when all belligerent parties agree to implement them during the conflict¹²⁵. Nonetheless, the weaknesses of the *si omnes* clause are somehow balanced by the fact that many provisions contained in the The Hague Conventions, especially in those of 1907, are now regarded as customary international law¹²⁶, which is binding on all States

¹²¹ *Ibid.* 32.

¹²² Paola Gaeta *et al.*, Cassese’s International Law (Oxford: Oxford University Press, 2020): 369.

¹²³ Michael Bothe *et al.*, “Historical Development and Legal Basis”, in *The Handbook of International Humanitarian Law, Fourth Edition*, ed. Dieter Fleck (Oxford: Oxford University Press, 2021): 32.

¹²⁴ Jochen von Bernstorff, “Martens Clause”, in *Max Planck Encyclopedias of International Law* (Oxford: Oxford University Press, 2023).

¹²⁵ Paola Gaeta *et al.*, Cassese’s International Law (Oxford: Oxford University Press, 2020): 370.

¹²⁶ Michael Bothe *et al.*, “Historical Development and Legal Basis”, in *The Handbook of International Humanitarian Law, Fourth Edition*, ed. Dieter Fleck (Oxford: Oxford University Press, 2021): 35.

regardless of their explicit consent¹²⁷. At present, some parts of the Conventions can be superseded since they have been replaced either by State practice¹²⁸ or by the fact that the 1977 Additional Protocols to the Geneva Conventions have somehow merged the two main pillars of international humanitarian law, namely the so-called Hague Law and the Geneva law¹²⁹. The merger of the two bodies of law gave more prominence to the Geneva Conventions and the Additional Protocols, thus giving greater importance to the work of the International Committee of the Red Cross.

While the 1949 Geneva Conventions and the Three Additional Protocols, and to a lesser extent the Hague Conventions, still contain the main provisions that form part of international humanitarian law, it is fair to mention other subsequent treaties. Among the many, the most significant are the 2017 Treaty on the Prohibition of Nuclear Weapons, the 1994 San Remo Manual on Armed Conflicts at Sea, and the 1998 Statute of the International Criminal Court¹³⁰. The last one, as it will be illustrated, has had a great impact on the enforceability of IHL. In particular, the Rome Statute is important for the ICRC because it recognizes its *sui generis* international legal status and also acknowledges its mandate in relation to IHL issues¹³¹. Furthermore, States are bound not only to respect treaty law to which they are Party. In fact, international humanitarian law is also formed by customary rules and state practice.

2.1.2 The Geneva Conventions and the Additional Protocols

It has already been outlined that the core of international humanitarian law is at present constituted by the so-called Geneva Law. Effectively, this means that the Four Geneva Conventions of 1949 and the Additional Protocols of 1977 and 2005 are the most authoritative treaties in the field of *jus in bello*. The present Conventions, however, are not the first ones to be adopted under the auspices of the International Committee of the Red Cross. In fact, as already explained, the first relevant act of the Committee was

¹²⁷ Paola Gaeta *et al.*, Cassese's International Law (Oxford: Oxford University Press, 2020): 184.

¹²⁸ Michael Bothe *et al.*, "Historical Development and Legal Basis", in *The Handbook of International Humanitarian Law, Fourth Edition*, ed. Dieter Fleck (Oxford: Oxford University Press, 2021): 36.

¹²⁹ Christian Tomuschat, "Mitigating the Effects of Armed Conflict: Humanitarian Law", in *Human Rights: Between Idealism and Realism*, ed. Christian Tomuschat (Oxford: Oxford University Press, 2014): 344.

¹³⁰ ICRC Database, "Treaties and State Parties", *Treaties and State Parties*. Url: <https://ihl-databases.icrc.org/en/ihl-treaties/treaties-and-states-parties?title=&topic=&state=&from=&to=&sort=topic&order=DESC> (Last access on 17 April 2025).

¹³¹ Hans-Peter Gasser, "International Committee of the Red Cross (ICRC)", in *Max Planck Encyclopedias of International Law* (Oxford: Oxford University Press, 2016).

the adoption, on August 22nd 1864, of the Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, commonly known as the 1864 Geneva Convention. This important document saw the addition of some articles in 1868 and a revision of the text as a whole in 1906¹³². In 1929 the ICRC achieved an important result. In fact, the Swiss Federal Council convened a diplomatic conference in order to adopt a revision of the 1864 Convention and to elaborate a new document about the treatment of prisoners of war (POWs). There is little doubt that the recognition of the need to safeguard POWs is a result of the experience of the first decades of the XX century, especially of WWI. This conference of July 1929 led to the adoption of the Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, the evolution of the first one, with which it also shares the title, and of the Convention relative to the Treatment of Prisoners of War¹³³.

Analogously, there is reason to say that the adoption of the Four Conventions in 1949 has been heavily impacted by the events of WWII. It is true, however, that drafts of revision of the 1929 Conventions have also been prepared and discussed on the occasion of International Red Cross Conferences of 1934 and 1938, thus before the Second World War broke out. The crucial turning point is represented by the four drafts prepared by the Committee and submitted to the Seventeenth International Red Cross Conference, which approved them in Stockholm in 1948, one year before the formal adoption of the Conventions by the State parties¹³⁴. The diplomatic conference for the adoption of the Conventions was convened in Geneva by the Swiss government and saw the participation of representatives from 63 countries. Of these, only two did not officially sign the Conventions by February 1950¹³⁵. The conference adopted the following texts, which are usually named according to their number:

- I. Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field;

¹³² ICRC Database, "Treaties and State Parties", *Historical Treaties and Documents*. Url: <https://ihl-databases.icrc.org/en/ihl-treaties/historical-treaties-and-documents> (Last accessed on 30 April 2025).

¹³³ *Ibid.*

¹³⁴ Joyce A. C. Gutteridge, "The Geneva Conventions of 1949", *British Yearbook of International Law*, no. 26 (1949): 294-296.

¹³⁵ Raymund T. Yingling and Robert W. Ginnane, "The Geneva Conventions of 1949", *The American Journal of International Law* 46, no. 3 (1952): 393-394.

- II. Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea;
- III. Convention Relative to the Treatment of Prisoners of War;
- IV. Convention Relative to the Protection of Civilian Persons in Time of War.

The Fourth Convention is remarkable because, for the first time, a document was signed concerning civilians affected by warfare. The others were all revisions of previous treaties, in particular: the First revised the 1929 Convention that is titled identically, the Second revised the X Hague Convention for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention, and the Third revised the Second 1929 Convention¹³⁶.

The Conventions must be thought of as a unique block of provisions. The fact that the Conventions are four merely reflects the need to have specific provisions for each one of the domains they concern. Indeed, they also contain common provisions whose texts, with some minor exceptions, share the same wording. This first set of rules is under the heading of “General Provisions”. While Common Article 1 simply states that the “High Contracting Parties” are committed to respecting the norms contained in the same Convention, the subsequent article is of relevance because expands the applicability of the treaty to fighting among “two or more of the High Contracting Parties”¹³⁷. Importantly, this article also compensates for one of the main deficiencies of the Hague Conventions, namely the *si omnes* clauses, since it binds State Parties even in case of conflict with countries not Parties to the Conventions. This applies to all the Conventions, with particular relevance to the Second Convention because it transposed, and developed, the norms contained in the X Hague Convention.

Arguably, Common Article 3 is the most relevant provision among the set of those common to all the Conventions. This is because for the first time a treaty is concerned with the regulation of non-international armed conflicts (NIACs), extending its scope beyond “classic” wars fought between two or more nations¹³⁸. It must also be recalled that this provision comes after civil wars, such as the Spanish one of the 1930s, in which cruelties were no less present than in international conflicts. The article reads

¹³⁶ *Ibid.* 393.

¹³⁷ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, art. 2.

¹³⁸ Paola Gaeta *et al.*, *Cassese’s International Law* (Oxford: Oxford University Press, 2020): 371.

“Persons taking no active part in the hostilities... should in all circumstances be treated humanely”. As it can be inferred, this represents just a set of minimum standards that can be vulnerable to different interpretations, and this is because the provision is the result of a compromise between diverging views of the State parties¹³⁹. Nevertheless, the significance of the achievement of this provision, especially in the context in which it was created, must not be underestimated. Another regrettable aspect of this provision lies in the definition of “armed conflict not of an international character”. Some interpret the definition as merely concerning “intra-state” conflicts, i.e. conflict within the territory of one State only. Others, by contrast, think of it as comprising conflicts also beyond the borders of a single State (but not between two governments)¹⁴⁰. Unfortunately, it must also be noted how the application of the Conventions more than once went through difficulties, both when the provisions were accepted and when this was not the case, especially during wars of decolonization¹⁴¹. At present, Common Article 3 of the 1949 Geneva Conventions has acquired the status of customary international law, thus binding any actor in any conflict and not just in “armed conflict not of an international character”¹⁴².

After Common Article 3, the other articles of the General Provisions section regulate matters not of less importance but perhaps have not as much of an impact. They regulate, for example, the duration of the application of the convention and the special agreements that can be concluded by the Parties, thus being of a more bureaucratic nature. However, at the end of this section are Articles 8 *et seq.* (Articles 9 *et seq.* in the Fourth Convention). As already explained, their relevance lies in the fact that they regulate the institution of Protecting Power, and also the practice of good offices, putting the ICRC at the disposal of the belligerent parties for the sake of IHL. Interestingly, there is no explicit mention of these roles in the Statutes of the Committee, although they constitute the core of the activities that can be carried out by the ICRC during conflicts.

¹³⁹ Raymund T. Yingling and Robert W. Ginnane, “The Geneva Conventions of 1949”, *The American Journal of International Law* 46, no. 3 (1952): 395.

¹⁴⁰ Jakob Kellenberger, “The Role of the International Committee of the Red Cross”, in *The Oxford Handbook of International Law in Armed Conflict*, eds. Andrew Clapham and Paola Gaeta (Oxford: Oxford University Press, 2014): 29.

¹⁴¹ François Bugnion, “The Geneva Conventions of 12 August 1949: from the 1949 Diplomatic Conference to the Dawn of the New Millennium”, *International Affairs* 76, no. 1 (2000): 44.

¹⁴² Paola Gaeta *et al.*, *Cassese’s International Law* (Oxford: Oxford University Press, 2020): 375.

There is another section of interest, which, as the first one, is contained in all the Four Geneva Conventions of 1949, although in different positions in each one of them. This section is usually before the Final Provisions. As already mentioned, Article 49 of the First Convention (and analogous Articles for the other three documents) delegates the enforcement of the provisions therein to the High Contracting Parties, which “undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention”¹⁴³. Regrettably, the category of “grave breaches” is not precisely defined. It was avoided on purpose not to mention “war crimes”, although grave breaches of the Conventions most probably amount to war crimes¹⁴⁴.

These Four Geneva Conventions represent, especially for the time in which they have been adopted, a real advancement in the field of international humanitarian law, whose aim is to minimize the effects of armed violence to the greatest extent possible¹⁴⁵. However, with the passing of time, they can become obsolete, at least partly, and need to be updated. For this, in 1977 two additional protocols have been adopted, the First expanding the scope of application of the Geneva law to other armed conflicts, such as for instance wars of national liberation, and the Second, which applies to all armed conflicts, enhances the guarantees for those not taking part in the hostilities¹⁴⁶. What is arguably the main vulnerability of the Two Protocols is their ratification, which is not as broad as that of the Conventions. In fact, numerous states are Parties to only one of the Protocols, especially to the First¹⁴⁷.

The main advancements of the First Protocol are represented, among others, by the regulation of the conduct of hostilities between opposing armed forces, the protection of civilians under enemy occupation, and, importantly, provisions on weapons¹⁴⁸, which in the years of the Cold War saw rapid technological evolution. On the other hand, the Second Protocol can be labeled as more “ambitious” because it concerns civil wars. In fact, it aims at regulating, through an international agreement, a

¹⁴³ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, art. 49.

¹⁴⁴ Joyce A. C. Gutteridge, “The Geneva Conventions of 1949”, *British Yearbook of International Law*, no. 26 (1949): 305.

¹⁴⁵ *Ibid.* 325.

¹⁴⁶ Paola Gaeta *et al.*, *Cassese’s International Law* (Oxford: Oxford University Press, 2020): 372.

¹⁴⁷ *Ibid.* 373.

¹⁴⁸ George H. Aldrich, “New Life for the Laws of War”, *The American Journal of International Law* 75, no. 4 (1981): 777-778.

matter that, at least until then, was often considered to be of an internal competence of States. The Protocol implies that international law, in this case humanitarian law, is to be applied within the territory of one State, namely during civil wars¹⁴⁹.

The Third Protocol of 2005, relating to the “Adoption of an Additional Distinctive Emblem”, can be considered by some as having a lesser impact on international humanitarian law and, arguably, one of its main weaknesses lies in the number of Signatory State, which only amounts to 84¹⁵⁰. As it can be inferred from how the Protocol has been titled, the document aims to introduce a new distinctive emblem. Originally, the Red Cross was adopted as the reverse of the Swiss flag and did not bring with itself any religious value. However, claims on the basis of religious interpretations led to the adoption, ratified by the 1929 Geneva Convention, of the aforementioned Red Crescent and Red Lion and Sun, at the request of the Ottoman Empire and of Persia respectively¹⁵¹. Importantly, the Red Lion and Sun had fallen into desuetude since 1980¹⁵². Even before 1980, and in particular at the Diplomatic Conference of 1949 and 1974-1977, discussions as to whether or not the red shield of David was to be adopted as an additional emblem originated¹⁵³. This would have created a contradiction: each of the three main monotheistic religions would have had its own emblem, which in turn were regarded as having no religious value. The solution of a single emblem, with universal validity, could not be easily reached and this brought to the adoption, with the 2005 Additional Protocol, of the Red Crystal, which has no religious meaning¹⁵⁴.

¹⁴⁹ Igor P. Blishchenko, “Adoption of the 1977 Additional Protocols”, *International Review of the Red Cross*, no. 320 (1997): 511.

¹⁵⁰ ICRC Database, “Treaties and State Parties”, *Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III)*, 8 December 2005. Url: <https://ihl-databases.icrc.org/en/ihl-treaties/apiiii-2005/state-parties?activeTab=default#footnote-1> (Last accessed 17 May 2025).

¹⁵¹ Ann M. Torres, “International Committee of the Red Cross: Emblem of Humanity”, *Marketing intelligence & planning* 28, no. 2 (2010): 227-228.

¹⁵² Annyssa Bellal and Stuart Casey-Maslen, “The Scope of Application of the Three Additional Protocols”, *The Additional Protocols to the Geneva Conventions in Context* (Oxford: Oxford University Press, 2022): 25.

¹⁵³ Jean-François Quéguiner, “Commentary on the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III)”, *International Review of the Red Cross* 89, no. 865 (2007): 177.

¹⁵⁴ *Ibid.* 206-207.

2.2 The Role of the International Committee of the Red Cross

2.2.1 The Mandate of the ICRC according to its Statutes

As already said, Article 4 of the Statutes of the ICRC regulates the role of the Committee and lists the duties it must carry out. The first of its duties is a moral one. In fact, the ICRC shall “maintain and disseminate the Fundamental Principles of the Movement”¹⁵⁵, which are seven. Among all of them, it can be said that the most relevant ones are humanity, impartiality, neutrality, and universality. These, one could argue, are those which seem to be the most directly linked to Henry Dunant’s experience from the Battle of Solferino and his initial vision. Interestingly, the website of the ICRC describes its mission stating that the Committee does not take sides, is the guardian of international humanitarian law, and is the world’s largest humanitarian network¹⁵⁶. It is evident that this recalls the above-mentioned principles.

No description of the Fundamental Principle is needed, but clarification might be necessary for what regards impartiality and neutrality. Neutrality is the tool¹⁵⁷ which in practice imposes to the Committee to maintain a certain distance between the parties to a conflict. Its neutral stance enables the Committee to offer humanitarian assistance impartially, meaning with no distinction based on the side or the nationality of the recipients¹⁵⁸. Independence, another of the Fundamental Principles, is the prerequisite for neutrality and, consequently, impartiality. The Committee can remain neutral because it is independent, and the only government to which it can be considered closely connected is the Swiss, which supports this thesis. The second task of the ICRC is a “bureaucratic” one: it is provided that the Committee has the power to recognize new National Red Cross or Red Crescent Societies¹⁵⁹. As already clarified, National Societies are completely independent from the Committee, but they can still provide support to it.

Letters from c to h of the first paragraph include mandates related, albeit to different degrees, to the development and application of international humanitarian law.

¹⁵⁵ Statutes of the International Committee of the Red Cross, art. 4, par. 1, letter a.

¹⁵⁶ International Committee of the Red Cross, “Our Mandate”. Url: <https://www.icrc.org/en/our-mandate-and-mission#big-ideas939600> (Last accessed on 16 April 2025).

¹⁵⁷ Marion Harroff-Tavel, “Neutrality and Impartiality: The importance of these principles for the International Red Cross and Red Crescent Movement and the difficulties involved in applying them”, *International Review of the Red Cross*, no. 273 (1989): 537.

¹⁵⁸ *Ibid.* 538.

¹⁵⁹ Statutes of the International Committee of the Red Cross, art. 4, par. 1, letter b.

For instance, not only is the ICRC entrusted with the application of humanitarian law in armed conflicts¹⁶⁰ but also must implement the provisions of the Geneva Conventions through the Central Tracing Agency¹⁶¹. This body is a branch of the Committee and several articles of the Conventions regulate its role¹⁶². It is primarily tasked with finding, and possibly rescuing, prisoners of war, internees, and any displaced person, military or civilian¹⁶³. As it will subsequently be explored, it is relevant that the Statutes make explicit reference to the Conventions, underlining that there is a strict link between both documents and the action of the Committee. Furthermore, the Committee disseminates the “knowledge of international humanitarian law applicable in armed conflicts”¹⁶⁴, while, at the same time, it ensures the protection of victims and prepares and trains military and civilian medical services and personnel in armed conflict. Importantly, in carrying out these duties, the ICRC acts as a neutral institution¹⁶⁵, as the Fundamental Principles dictate. A provision that broadens the scope of action of the Committee is the one that reads “prepare any development” of international humanitarian law¹⁶⁶. This provision puts the Committee in the right position, and arguably confers upon it the highest authority, to adapt this body of law to the challenges it faces over time. Importantly, the importance for the ICRC to act in the field of international humanitarian law is highlighted by the Preamble of the Statutes, which remarks that the Committee aims at “promoting and strengthening humanitarian law and universal humanitarian principles”¹⁶⁷.

As it can be inferred, the provisions listed in Article 4 of the Committee’s Statutes can be interpreted as containing merely theoretical and rather broad mandates. Importantly, in this regard, the Geneva Conventions complement the ICRC’s Statutes and assign to it more precise tasks. For instance, among many other tasks, in the Conventions the ICRC’s good offices and its work with prisoners of war are repeatedly

¹⁶⁰ *Ibid.* art. 4, par. 1, letter c.

¹⁶¹ *Ibid.* art. 4, par. 1, letter e.

¹⁶² Monique Katz, “The Central Tracing Agency of the ICRC”, *International Review of the Red Cross*, no. 199 (1977): 407.

¹⁶³ E. L. Jaquet and J. P. Schoenholzer, “Central Tracing Agency”, *International Review of the Red Cross*, no. 45 (1964): 638.

¹⁶⁴ Statutes of the International Committee of the Red Cross, art. 4, par. 1, letter g.

¹⁶⁵ *Ibid.* art. 4, par. 1, letter d.

¹⁶⁶ *Ibid.* art. 4, par. 1, letter g.

¹⁶⁷ Statutes of the International Committee of the Red Cross, Preamble.

mentioned¹⁶⁸. Another evidence comes from the fact the prerogatives of the ICRC to act as a Protecting Power, an institution that even predates the Committee, are established in the Conventions¹⁶⁹, while no explicit mention of these prerogatives can be found in the Statutes. Therefore, it could be argued that the Statutes represent the guidelines for the work of the Committee, while the Conventions put in practice these guidelines.

2.2.2 The ICRC and International Humanitarian Law

Although there is no clear evidence of that, it is reasonable to affirm that the ICRC is one of the largest, if not the largest, international humanitarian organizations, considering that it operates in nearly anywhere¹⁷⁰. Its universal authority, which also derives from the presence of National Red Cross and Red Crescent Societies in every corner of the world, possibly puts the Committee in the best position to act as the custodian of international humanitarian law. As previously illustrated, the dedication of the Committee in this field is remarked by the Statutes in the Preamble, which states that “the ICRC also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles”. Moreover, the work of the ICRC, also with the involvement of the Movement as a whole, has led in the first place to the drafting of the Conventions and their Additional Protocols and has often contributed, whether directly or indirectly, to the adoption of other treaties and resolutions¹⁷¹. In regards to its role as the “guardian” of international humanitarian law, the Committee has always worked in multiple directions, including not only by developing treaty law, but also by providing clarification and interpretation on the most pressing issues¹⁷². In more general terms, the role of the ICRC is to engage in dialogues

¹⁶⁸ Rotem Giladi and Steven Ratner, “The Role of the International Committee of the Red Cross”, in *The 1949 Geneva Conventions: A Commentary*, eds. Andrew Clapham, Paola Gaeta, and Marco Sassòli (Oxford: Oxford University Press, 2015): 532.

¹⁶⁹ Tarcisio Gazzini, “A Unique Non-State Actor: the International Committee of the Red Cross”, *Human Rights & International Legal Discourse* 4, no. 1 (2010): 40.

¹⁷⁰ Jakob Kellenberger, “The Role of the International Committee of the Red Cross”, in *The Oxford Handbook of International Law in Armed Conflict*, eds. Andrew Clapham and Paola Gaeta (Oxford: Oxford University Press, 2014): 21.

¹⁷¹ Knut Dormann, “The Role of Nonstate Entities in Developing and Promoting International Humanitarian Law”, *Vanderbilt Law Review* 51, no. 3 (2018): 717.

¹⁷² *Ibid.* 716.

with all parties to a conflict and to look for solutions in line with the aims of international humanitarian law¹⁷³.

As outlined earlier, while the main work of the Committee in the field of international humanitarian law had to do with treaty law, it must be acknowledged that in the present international scenario it is not always feasible to bring together a high number of countries and combine their wills so as to produce a coherent set of binding norms. That is why the current focus of the ICRC is to stimulate debates about the respect of IHL in international fora rather than preparing the adoption of international treaties. Being aware of the growing inadequacy of international humanitarian law in the context of non-international armed conflicts, the Committee extends its action as far as the explicit consent of State parties is not needed.

For instance, projects such as the “Strengthening Legal Protection for Victims of Armed Conflicts” one go in this direction by focusing on armed conflicts regardless of their international or national character. As far as international armed conflicts are concerned, State Parties to the Geneva Conventions are bound to allow ICRC delegates to carry out detention visits, while the involvement of non-state actors has the opposite effect in NIACs. However, it is extremely positive that, in the 2010s, 95% of ICRC delegates visits to prisons have happened without any legal obligation¹⁷⁴. A similar initiative is the one called “Strengthening IHL Protecting Persons Deprived of their Liberty”, which, although without the agreement of States, had been instrumental in the promotion of a debate on the need to provide safeguards to detainees and other categories of people, especially in NIACs¹⁷⁵. These initiatives saw the involvement of States, which, however, have chosen not to commit themselves.

At the same time, the ICRC moves in a more “academic” direction. In fact, not only it seeks to stimulate debates with governments and State actors but it also fosters debates among experts and scholars. Through meetings with practitioners of legal, military and even ethical aspects of IHL issues, such as the principle of proportionality or weapons law, the Committee aims at bringing the relevant concerns to multilateral

¹⁷³ Peter Maurer, “Challenges to international humanitarian law: Israel’s occupation policy”, *International Review of the Red Cross* 94, no. 888 (2012): 1509.

¹⁷⁴ Jakob Kellenberger, “The Role of the International Committee of the Red Cross”, in *The Oxford Handbook of International Law in Armed Conflict*, eds. Andrew Clapham and Paola Gaeta (Oxford: Oxford University Press, 2014): 29.

¹⁷⁵ Knut Dormann, “The Role of Nonstate Entities in Developing and Promoting International Humanitarian Law”, *Vanderbilt Law Review* 51, no. 3 (2018): 718.

fora in order to contribute positively to the discussion or negotiations taking place¹⁷⁶. Arguably, all these progresses could at least influence State practice where they do not bind governments.

One of the efforts of the Committee is in favor of the already mentioned principle of distinction, which is nowadays often ignored, especially by non-state actors. In this regard, the ICRC acts not only as the guardian of international humanitarian law, but also puts its best efforts in providing clarification. Evidence of the ICRC's dedication is provided by the publication, by the Committee itself, of an Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law. The purpose of this document is to clarify what can be considered as direct participation in warfare for the purpose of the application of the principle of distinction¹⁷⁷. The constant increase in the number of violations of this principle derives from the main features of fighting in present days, in which not only civilians are more involved in military operations than it was previously but also populated areas are included in the battlefield¹⁷⁸.

In a similar vein, and beyond the merely academic dimensions, the ICRC has also published, in the 1950s and 1980s, the Commentaries to the Geneva Conventions and the Additional Protocols, while in the 2010s began to work for further updating them¹⁷⁹. This is in line with the mandate given upon the Committee by its Statutes, namely to “work for the faithful application of international humanitarian law”¹⁸⁰. Differently from what happened before, in working for the Commentaries the ICRC heavily relied on external resources, mainly expertise from academia¹⁸¹. Another difference from previous works lies in the fact that the aim of the Commentaries is not only to provide clarifications but also to highlight contradictions and deficiencies of IHL¹⁸². What is important to recall is that new interpretations of the Conventions and the

¹⁷⁶ *Ibid.* 720-721.

¹⁷⁷ Nils Melzer, “Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law”, *International Committee of the Red Cross* (Geneva: International Committee of the Red Cross, 2009): 6.

¹⁷⁸ Knut Dormann, “The Role of Nonstate Entities in Developing and Promoting International Humanitarian Law”, *Vanderbilt Law Review* 51, no. 3 (2018): 720.

¹⁷⁹ Lindsey Cameron *et al.*, “The Updated Commentary on the First Geneva Convention– A New Tool for Generating Respect for International Humanitarian Law”, *International Review of the Red Cross* 97, no. 900 (2015): 1210.

¹⁸⁰ Statutes of the International Committee of the Red Cross, art. 4, par. 1, letter c.

¹⁸¹ Knut Dormann, “The Role of Nonstate Entities in Developing and Promoting International Humanitarian Law”, *Vanderbilt Law Review* 51, no. 3 (2018): 722.

¹⁸² *Ibid.* 723.

Protocols are needed not in order to distort the original meaning of the provisions therein, but rather to adapt them to situations the drafters could not have imagined at the time of drafting. Among the many one could make, two examples can illustrate how these updates are needed. The first relates to the evolution of law. Article 49 of the First Convention of 1949 binds Contracting Parties to enact legislation and take the necessary measures in order to sanction any breach of the Conventions, but cannot take into account the establishment in 1998 of the International Criminal Court. As already argued, the ICC can be of great relevance in international humanitarian law¹⁸³. The second example deals with the evolution of technology. At present, elements such as the use of drones, the possibility of DNA sampling, and the threat of cyber attack, among others, must be seen also through the lens of the Conventions in order to extend IHL provisions to such fields¹⁸⁴.

The cases illustrated above mainly had to do with treaty law provisions, but it must be acknowledged that the role of the ICRC also extends to the clarification and “codification” of custom rules. In fact, the 1995 26th International Conference of the Red Cross and Red Crescent asked the Committee to prepare a study in customary rules. In 2005 the Study of Customary International Humanitarian Law was published¹⁸⁵. This document is important because it can be used as a compass for States that are not bound by treaty law (given they are not party to a certain treaty) but still subject to customary rules. However, while the Study has been relied upon both by the Committee itself and by others¹⁸⁶, it is still unclear whether it can be universally adopted to establish which rules pertain to custom and which others do not.

Records of most of the ICRC’s efforts and contributions illustrated previously can be found in the International Review of the Red Cross. The review has accompanied the work of the Committee almost since the beginning, it was created in 1869, and is consulted not only by academic figures but also by governments and IHL practitioners

¹⁸³ Lindsey Cameron *et al.*, “The Updated Commentary on the First Geneva Convention– A New Tool for Generating Respect for International Humanitarian Law”, *International Review of the Red Cross* 97, no. 900 (2015): 1221.

¹⁸⁴ *Ibid.* 1222.

¹⁸⁵ Yoram Dinstein, “The ICRC Customary International Humanitarian Law Study”, *International Law Studies* 82, no. 1 (2006): 99.

¹⁸⁶ Jean-Marie Henckaerts, “Customary international humanitarian law: taking stock of the ICRC study”, *Nordic Journal of International Law* 78, no. 4 (2009): 437-438.

in general¹⁸⁷. It follows that the Review represents one of the most authoritative voices in the field of international humanitarian law at the global level.

The Committee also applies international humanitarian law in several ways and its capacity as a Protecting Power is perhaps the main one, from which many others derive. This is an institution older than the creation of the ICRC and the adoption of the first Convention. In brief, the Protecting Power is an entity, in most cases a State, which is not taking part in the conflict and is chosen to protect the interests of one of the belligerent States¹⁸⁸. In case the parties are not able to reach an agreement and designate a Protecting Power, the ICRC has the right, under the Conventions and the Protocols, to offer itself to act as a substitute¹⁸⁹. In this capacity, the ICRC can offer its good offices to put the two parties in contact and also exercise its scrutiny over their actions¹⁹⁰. Importantly, the institution of Protecting Powers is regulated by Article 8 (Article 9 in the Fourth Convention), whose provisions are contained in all the 1949 Geneva Conventions. It is stated that the Conventions themselves are to be applied under the scrutiny of a Protecting Power¹⁹¹. Article 10 (Article 11 in the Fourth Convention) states that in case no agreement can be reached, the Detaining Power must either ask or accept that this role be performed by any humanitarian organization, and by the ICRC in particular. The aim of this provision is, on the one hand, to ensure that protected persons are always assisted and, on the other, that the application of the Conventions is constantly controlled by an impartial, and thus reliable, institution¹⁹². Moreover, under Article 11 (Article 12 in the last Convention), the task of the conciliation procedure is given to the Protecting Power. This mainly applies in case of divergences concerning the application or interpretation of the Conventions¹⁹³. In particular, it is stated that in case the parties to the conflict are not able to reach an agreement “the Protecting Powers shall lend their good offices with a view to settling the disagreement”. This implies that

¹⁸⁷ International Review of the Red Cross, “About the Review”. Url: <https://international-review.icrc.org/about/about-review> (Last accessed on 28 April 2025).

¹⁸⁸ Howard S. Levie, “Prisoners of War and the Protecting Power”, *The American Journal of International Law* 70, no. 2 (1961): 29.

¹⁸⁹ Jean De Preux, “Synopsis I: Protecting Power”, *International Review of the Red Cross*, no. 245 (1985): 87.

¹⁹⁰ *Ibid.* 88-91.

¹⁹¹ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, art 8.

¹⁹² Raymund T. Yingling and Robert W. Ginnane, “The Geneva Conventions of 1949”, *The American Journal of International Law* 46, no. 3 (1952): 397.

¹⁹³ *Ibid.* 398.

delegates of the parties, and if necessary a representative of a neutral power or organization, meet in order to find a possible solution in order to solve the disagreement.

2.3 Conclusion

The chapter has shown how the aim of international humanitarian law, also known as *jus in bello*, is to avoid as much as possible human suffering by putting constraints to what states can do during armed conflict. In a similar vein, the purpose of the International Committee of the Red Cross is to bring relief to those in need. As outlined in the chapter, the field of action of the Committee is quite broad and deals with international humanitarian law from various perspectives. The following chapter will be devoted to the illustration of the work of the ICRC in different scenarios throughout the world and to show how it adapts to local necessities.

3. The Work of the International Committee of the Red Cross on the Field

It has been previously shown how the ICRC can operate and rely on the world's largest humanitarian network¹⁹⁴. Not only it deploys its own resources but it can also make use of and coordinate all the means in the hands of National Red Cross and Red Crescent Societies throughout the world. At the time of writing, the Committee is engaged in various countries, plagued not only by armed conflicts but also by natural or man-made disasters. Most notably, the ICRC is currently carrying out operations in Afghanistan, the Democratic Republic of Congo, Ethiopia, Israel and the Occupied Territories, Lebanon, Myanmar, Sudan, Syria, Ukraine, and Yemen¹⁹⁵. It must be underlined that, wherever the Committee carries out its activities, the Fundamental Principles, and most notably impartiality, neutrality, and independence, have always been a constant point of reference. For the sake of this thesis, the cases of Israel and the Occupied Territories, Myanmar, and Ukraine will be briefly outlined.

3.1 The ICRC in Israel and the Occupied Territories

The International Committee of the Red Cross has been permanently present in Israel and the Occupied Territories, the Gaza Strip, West Bank, and East Jerusalem in particular, since 1967¹⁹⁶. The work of the ICRC in Israel and the Occupied Territories can be thought of as going in three directions: on the field, it provides humanitarian assistance to the population and also implements IHL by both providing assistance to detainees and by offering Family Links services, while at the same time it brings to the attention of both parties their obligations under apply international humanitarian law¹⁹⁷. As anywhere else in the world, the ICRC works alongside the National Societies of the countries concerned. In Israel and the Occupied Territories, these are the Palestinian

¹⁹⁴ International Committee of the Red Cross, "Our Mandate". Url: <https://www.icrc.org/en/our-mandate-and-mission#big-ideas939600> (Last accessed on 8 May 2025).

¹⁹⁵ International Committee of the Red Cross, "Where We Work". Url: <https://www.icrc.org/en/where-we-work> (Last accessed on 8 May 2025).

¹⁹⁶ International Committee of the Red Cross, "Where We Work - Israel and the Occupied Territories". Url: <https://www.icrc.org/en/where-we-work/israel-and-occupied-territories> (Last accessed 12 May 2025).

¹⁹⁷ *Ibid.*

Red Crescent Society, the Magen David Adom (the Israeli Red Cross), and the Lebanese Red Cross Society¹⁹⁸.

To provide a proper explanation of the work of the Committee in Israel and the Occupied Territories, it is necessary to briefly illustrate the history of the area concerned. According to the United Nations Partition Plan, the then Mandate Palestine was to be split in two: 55% of land in favor of the Jewish State and 44% to the Palestinian one. However, when Israel proclaimed its independence on May 14 1948 fighting with the Arab States immediately broke out and by the end of that year Israel controlled 78% of the Palestinian territory¹⁹⁹. Furthermore, at the end of the 1967 Six Days War, Israel came to occupy the Golan Heights, the Gaza Strip and the Sinai Peninsula, and the West Bank, to the detriment of Syria, Egypt, and Jordan respectively. At present, Israel has to different degrees either occupied or annexed all the above territories, with the exception of the Sinai Peninsula that has been returned to Egypt in 1979²⁰⁰. All these regions are commonly referred to as “Occupied Territories”. However, this definition is problematic because, from a legal point of view, there has never been a binding document giving them to the Palestinians. Furthermore, the expression has repeatedly been used in non-binding acts, most notably in those of the UN General Assembly and of the same ICRC²⁰¹.

As previously anticipated, the work of the Committee in Israel and the Occupied Territories includes the provision of humanitarian assistance. The work of the Committee in the Gaza Strip has always been devoted to the assistance of the population, but the necessities of the population have dramatically increased in the last years. There is no need here to discuss the immense suffering that has been affecting both populations, particularly the Palestinians, for decades, especially after October 2023. As it will be illustrated, to address the most essential needs, the ICRC has established a field hospital and common kitchens in the Gaza Strip.

¹⁹⁸ Belgian Red Cross Flanders, “Conflict in Israel and the Occupied Palestinian Territories”. Url: <https://en.rodekruis.be/hulp/conflict/> (Last accessed 12 May 2025).

¹⁹⁹ Susan M. Akram and Michael Lynk, “Arab-Israeli Conflict”, in *Max Planck Encyclopedias of International Law* (Oxford: Oxford University Press, 2023).

²⁰⁰ Benjamin Rubin, “Israel, Occupied Territories”, in *Max Planck Encyclopedias of International Law* (Oxford: Oxford University Press, 2023).

²⁰¹ Alan Baker, “International Humanitarian Law, ICRC and Israel’s Status in the Territories”, *International Review of the Red Cross* 94, no. 888 (2012): 1513-1514.

As of May 2024, seventeen members of the Palestine Red Crescent Society personnel have been killed while on duty and only approximately 30% of hospitals and care centers in Gaza were functional²⁰². As a result of the destruction of the health infrastructure of the Gaza Strip, on 9th May 2024 the ICRC, in partnership with many National Societies (most notably the leadership of the Norwegian Red Cross and the support of the Palestine Red Crescent Societies), opened a 60-bed field hospital in Rafah. It is evident that the capacity of the hospital is limited and less than enough to provide assistance to all those in need, but it is still better than having no health facilities at all. As the same ICRC has declared, the opening of the hospital was necessary “in response to an urgent and desperate need”²⁰³. However, at the time of writing, since the humanitarian crisis has not been solved and new proper health infrastructures could not be established, the field hospital needs to remain open. In almost one year, the workers in the hospital have been able to provide many services: 80,241 people have been treated and 3,404 surgical procedures have been conducted²⁰⁴. The lives of doctors, nurses, and other health workers are threatened not only when working at the hospital but also when transferring patients to and from the hospital. Importantly, the field hospital is not the first hospital in which the ICRC operates in the Strip. As a matter of fact, the Committee has been present for over fifteen years at the European Gaza Hospital, not to take into account the support it has given to other medical infrastructures there²⁰⁵.

The provision of humanitarian assistance is, as it is evident, quite complex to carry out during hostilities. In addition, at the beginning of March 2025, Israel halted the entry of humanitarian aid into the Gaza Strip²⁰⁶. It goes without saying that this act

²⁰² International Committee of the Red Cross, “Red Cross opens new 60-bed field hospital in Gaza” (14 May 2024) Url: <https://www.icrc.org/en/document/red-cross-opens-new-60-bed-field-hospital-gaza> (Last accessed 12 May 2025).

²⁰³ International Committee of the Red Cross, “The Red Cross Field Hospital One Year On: A Lifeline and a Stark Reminder in Gaza” (7 May 2025). Url: <https://www.icrc.org/en/article/red-cross-field-hospital-one-year-lifeline-and-stark-reminder-gaza> (Last accessed 12 May 2025).

²⁰⁴ International Committee of the Red Cross, “Red Cross Field Hospital in Rafah, Gaza Strip: Facts & Figures 9 May 2024 – 12 April 2025” (7 May 2025). Url: <https://www.icrc.org/en/article/red-cross-field-hospital-rafah-gaza-strip-facts-figures-february-2025> (Last accessed 12 May 2025).

²⁰⁵ International Committee of the Red Cross, “Red Cross opens new 60-bed field hospital in Gaza” (14 May 2024) Url: <https://www.icrc.org/en/document/red-cross-opens-new-60-bed-field-hospital-gaza> (Last accessed 12 May 2025).

²⁰⁶ Jaroslav Lukiv and Paul Adams, “Israel blocks entry of all humanitarian aid into Gaza”, *BBC*, March 2, 2025. Url: <https://www.bbc.com/news/articles/c9q4w99je78o> (Last accessed 12 May 2025).

further worsened the humanitarian crisis and the suffering of the Gazan people. In this context, the ICRC's common kitchens often are the only source of food for many. The ICRC has organized six kitchens which in total provide meals to over 19,200 people every day²⁰⁷. Under international humanitarian law, Israel has the obligation of guaranteeing the entry of humanitarian assistance in the Strip. At the beginning of May 2025, the ICRC declared that, if the situation had not changed, both its field hospital and common kitchens would be able to provide assistance for only a few weeks. In mid-May 2025, Israel partially complied with its obligations by allowing nine UN trucks into the Gaza Strip. However, as the UN aid chef that was in charge of the operation stated, it is solely "a drop in the ocean"²⁰⁸.

As far as services to both families and detainees are concerned, the ICRC is actively engaged in Israel and the Occupied Territories as well. The work of the Committee for the care of detainees in Israel and the Occupied Territories, as most of the activities it carries out, predates the resumption of hostilities of October 2023. In many instances, the services offered by the ICRC are the only occasion for Palestinian detainees to be in touch with their families²⁰⁹. It is commonly known that the Committee acts as the intermediary when both Israeli hostages in Gaza and Palestinian detainees in Israel are released. For instance, in January 2025 the ICRC managed the second phase of release. During the same day, it transferred four hostages from the Gaza Strip to Israel and it was also involved, although to different extents, in the release and transfers from Israeli detention centers to Gaza and the West Bank of more than 200 detainees²¹⁰. The scope of action of the Committee in the field is broad. In this peculiar occasion, it was in charge of pre-departure interviews to assess the identity and the health of the released and also organized their travels. Furthermore, the ICRC has never interrupted its strictly confidential dialogue with the parties involved and it acts at their request and

²⁰⁷ International Committee of the Red Cross, "Gaza: Common Kitchens feed Thousands as Food Stocks dwindle" (22 April 2025). Url: <https://www.icrc.org/en/article/gaza-common-kitchens-feed-thousands> (Last accessed 12 May 2025).

²⁰⁸ "First trickle of aid in 3 months after Israel allows limited food into Gaza", *Al Jazeera*, May 19, 2025. Url: <https://www.aljazeera.com/news/2025/5/19/israel-to-allow-limited-food-into-gaza-amid-intensified-military-offensive> (Last accessed 20 May 2025).

²⁰⁹ Alain Aeschlimann, "Protection of detainees: ICRC action behind bars", *International Review of the Red Cross* 87, no. 857 (2005): 116.

²¹⁰ International Committee of the Red Cross, "Israel and the occupied territories: ICRC completes second phase of release operations, reuniting more families" (25 January 2025). Url: <https://www.icrcnewsroom.org/story/en/881/israel-and-the-occupied-territories-icrc-completes-second-phase-of-release-operations-reuniting-more-families> (Last accessed 13 May 2025).

with their tight coordination. In such delicate operations, the most important decisions are taken by the parties and the Committee only acts when and where it is asked to²¹¹. In a similar operation, in February 2025 the ICRC returned to Israel the remains of four hostages and organized the release of over 600 detainees from Israeli detention centers²¹².

From an IHL perspective, among the many tasks of the Committee is to detect, denounce, and act to solve any possible violation of the Geneva Conventions and the Additional Protocols. Already in 1968, in the aftermath of the Six Days War, the ICRC signaled in a note addressed to the governments of Israel, Syria, Jordan, and the then United Arab Republic that Israel did not facilitate the designation of a Protecting Power nor favor any other State or organization to act as a substitute. This, as the note reads, constituted a “major impediment in the safeguarding of the interests of persons protected by the Fourth Convention”²¹³.

In the same path, the Committee still urges the parties to respect their obligations under IHL provisions. It has already been pointed out that the legal status of the Occupied Territories is not clear. However, since at present the ICRC considers the West Bank and the Gaza Strip to be both under Israeli occupation²¹⁴, it follows that international humanitarian law and international human rights law are deemed applicable until such occupation ends²¹⁵. Thus, as the West Bank has been repeatedly affected by the establishment of civilian settlements, what the Committee does is to remind that these actions are in breach of international humanitarian law and urges Israeli authorities to respect the law of occupation. In particular, the Committee argues that what is breached is Article 49(6) of the Fourth Convention²¹⁶, according to which

²¹¹ *Ibid.*

²¹² International Committee of the Red Cross, “Israel and the occupied territories: ICRC facilitates return of remains, detainees under ceasefire agreement” (27 February 2025). Url: <https://www.icrc.org/en/news-release/israel-and-occupied-territories-icrc-facilitates-return-remains-detainees> (Last accessed 13 May 2025).

²¹³ “Application of the Geneva Conventions—particularly the Fourth—in Territory Occupied by Israel”, *International Review of the Red Cross*, no. 87 (1968):303.

²¹⁴ International Committee of the Red Cross, “Israel and the occupied Palestinian territory: The law of occupation must be respected” (19 July 2025). Url: <https://www.icrc.org/en/statement/israel-and-occupied-palestinian-territory-law-occupation-must-be-respected> (Last accessed 13 May 2025).

²¹⁵ Vaïos Koutroulis, “The application of international humanitarian law and international human rights law in situation of prolonged occupation: only a matter of time?”, *International Review of the Red Cross* 94, no. 885 (2012): 172.

²¹⁶ International Committee of the Red Cross, “Israel and the occupied Palestinian territory: The law of occupation must be respected” (19 July 2025). Url:

“The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies”²¹⁷.

Other breaches of IHL norms concern the killing of medical personnel and the violation of hospital and analogous premises. When eight medics of the Palestinian Red Cross Society were killed, the ICRC helped organize a dignified recovery of the bodies and also strongly condemned the attack since under international humanitarian law, the safety of health care workers must be guaranteed at all times²¹⁸. Similarly, the ICRC declared itself outraged on the occasion of damages caused to its premises by explosives. The attack was condemned in the strongest terms because, under IHL, buildings properly marked and notified to the parties, such as those of the Committee, must be protected in order to guarantee that humanitarian activities can be carried out²¹⁹.

The efforts devoted by the Committee in Israel and the Occupied Territories, as seen, are broad and go in various directions. The ICRC is constantly engaged in providing assistance to the victims of armed conflict, as it was in the ideas of Dunant, and never neglects its role as the guardian of international humanitarian law.

3.2 The ICRC in Myanmar

The presence of the International Committee of the Red Cross in Myanmar dates back to 1986²²⁰. This implies that the activities have evolved over time in order to tackle the various issues that have arisen at different moments. Indeed, this meant for the ICRC that it had to engage in a wide range of activities. At present, in Myanmar takes place the second largest operation of the Committee in Asia²²¹ and its main activities there include, among others, the protection of the population affected by armed

<https://www.icrc.org/en/statement/israel-and-occupied-palestinian-territory-law-occupation-must-be-respected> (Last accessed 13 May 2025).

²¹⁷ Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, art. 49, par. 6.

²¹⁸ International Committee of the Red Cross, “Israel and the occupied territories: ICRC appalled by killing of PRCS medics and first responders” (30 March 2025). Url: <https://www.icrc.org/en/news-release/israel-and-occupied-territories-icrc-appalled-killing-prcs-medics> (Last accessed 13 May 2025).

²¹⁹ International Committee of the Red Cross, “ICRC outraged as premises in Gaza struck and damaged by explosive” (17 April 2025). Url: <https://www.icrc.org/en/news-release/icrc-outraged-premises-damaged-explosive> (Last accessed 13 May 2025).

²²⁰ International Committee of the Red Cross, *Myanmar Strengthening Community Resilience Project (SCORE) (P508006) - Stakeholder Engagement Plan*, March 2025: 3.

²²¹ International Committee of the Red Cross, “Where We Work - Myanmar”. Url: <https://www.icrc.org/en/where-we-work/myanmar#text941363> (Last accessed 9 May 2025).

violence, the provision of family-links services, especially in regard to internally displaced people (IDPs), and the promotion of internationally recognized standards for the treatment of detainees²²². As it can be inferred, all these activities can be interpreted as the translation into practice of the main principles governing international humanitarian law.

Importantly, the ICRC is not alone in its work on the field. Among the many organizations with which it collaborates are the World Bank in the case of the Strengthening Community Resilience Project²²³, which also foresees the involvement of local authorities and organizations such as religious and community leaders, local government representatives, and civil society organizations in general²²⁴. Most notably, however, the ICRC collaborates tightly with the Myanmar Red Cross Society²²⁵. The partnership with the local branch of the broader International Red Cross and Red Crescent Movement reflects the universality of the Movement as a whole and also testimonies its unity. In this regard, it must be recalled that among the seven Fundamental Principles listed in the Statutes of the International Committee of the Red Cross are unity and universality²²⁶, which guide the action of the Committee, and of the components of the whole Movement, worldwide.

After the *coup d'état* committed by the military against the democratically elected government, Myanmar has experienced not only conflict but also deep fragmentation throughout its territory. In fact, armed ethnic groups that have been fighting against the military government have in many cases gained “independence” and created *de facto* autonomous zones²²⁷. Among the many difficulties caused to the population of Myanmar, difficulty of movement and of access to food and healthcare are the most urgent to tackle since they are those with the most repercussions. Regrettably, the armed conflict is the only problem the country is going through. Natural disasters have heavily impacted on the lives of the Burmese: Myanmar has been hit both by Cyclone Mocha in 2023 and by Typhoon Yagi in 2024, not to take into account the

²²²International Committee of the Red Cross, *Myanmar Strengthening Community Resilience Project (SCORE) (P508006) - Stakeholder Engagement Plan*, March 2025: 3.

²²³ *Ibid.* 2.

²²⁴ *Ibid.* 4.

²²⁵ Myanmar Red Cross Society, “Our Partners”. Url :https://www.redcross.org.mm/en_US/our-partners/ (Last accessed 8 May 2025).

²²⁶ Statutes of the International Committee of the Red Cross, art. 4, par. 1, letter a.

²²⁷ Richard Horsey, “Myanmar Is Fragmenting—but Not Falling Apart: Why Outside Actors Should Work More Closely With Nonstate Groups”, *Foreign Affairs* (31 May 2024).

annual monsoon rains. These events affected over 1 million people. Moreover, it has been calculated that 43% of the population is exposed to conflict, with the country ranking second in conflict intensity and fourth in civilian danger worldwide. All these, it goes without saying, cause immense suffering and it has been estimated that in 2025 at least 19.9 million people will be in need of humanitarian aid²²⁸. It is in this extremely challenging context that organizations such as the ICRC are called to act for the benefit of the affected population.

There is no risk in saying that for the Committee, as for any other humanitarian organization, an effective planning of its work is hard to implement. The ICRC, however, can rely on a quite sophisticated network of offices. In point of fact, in addition to its national head office in Yangon, the ICRC can make use of its own sub-delegations in Rakhine, Shan, Kachin States, and the Mandalay Region. Furthermore, it also has at its disposal a “mobile sub-delegation” for the south-eastern part of the country²²⁹. As already mentioned, it is worth noting that, in addition to its own network, the ICRC can also rely on the means in the hands of the Myanmar Red Cross National Society.

As a result, it can be inferred that paradoxically the armed conflict only represents a side of the coin and that the work of the Committee, while not neglecting its international humanitarian law perspective, is mostly concerned with practical humanitarian work *stricto sensu*. In this sense, the ICRC focused on the provision of essentials such as food, and water, but also provided the means for allowing the targeted population to rely on themselves. On the other hand, it also informed the population about the risks deriving from the hostilities, with landmines being one of the main problems for the population in their daily activities.

It is relevant that the Myanmar: Operational Facts and Figures – January to December 2024 Report, published by the ICRC, in its introduction lists its action in the provision of Family Links services and the promotion of international humanitarian law at the end of the introduction²³⁰. The Report provides an overview of the work of the

²²⁸ Humanitarian Action, Global Humanitarian Overview 2025 - Myanmar. Url: <https://humanitarianaction.info/document/global-humanitarian-overview-2025/article/myanmar-2> (Last accessed 9 May 2025).

²²⁹ International Committee of the Red Cross, *Myanmar Strengthening Community Resilience Project (SCORE) (P508006) - Stakeholder Engagement Plan*, March 2025: 19.

²³⁰ International Committee of the Red Cross, “Myanmar: Operational Facts and Figures – January to December 2024” (6 March 2025). Url:

Committee in the country in 2024. In particular, some figures are relevant to illustrate the degree of what has been done: 120,430 people received seeds and farm tools while 41,480 were provided food rations. Similarly, 173,336 people gained access to water, sanitation, and shelter and 5,162 people have received the support of the ICRC in the context of the Family Links Program. Importantly, 1,761 awareness sessions were held by the Committee on the risks of explosive hazards²³¹, most commonly landmines.

At the end of March 2025, Myanmar was further devastated by a powerful earthquake, leaving thousands of people dead and homes and essential infrastructures razed to the ground. It is needless to say that the ICRC needed to face with no hesitation new pressing difficulties. In only two days, the Red Cross as a whole managed to send where needed six emergency health kits (each covering the needs of 10,000 people for three months) and body bags for the deceased. It was also able to help those in need in a way that makes one think of Dunant's women of Castiglione by distributing helmets and other equipment for those helping in the front lines²³².

While an earthquake, as other natural disasters, is a dramatic event that cannot be predicted, the problem of landmines is a man-provoked one that constantly imperils the life of the Burmese. Regrettably, the Landmine Monitor Report found that in 2023 Myanmar ranked first in the number of civilian casualties provoked by the explosion of landmines, which means that all other countries in the world have lower rates of deaths²³³. In 2015, the ICRC started, in close cooperation with the Myanmar Red Cross Society, "risk awareness and safer behaviour" activities, whose aim is to train to identify potentially dangerous scenarios. These sessions, in which, for instance, farmers learned that wires could indicate explosive devices²³⁴, amounted to approximately 1,800, reaching more than 69,000 people²³⁵.

<https://www.icrc.org/en/report/myanmar-operational-facts-figures-jan-dec-2024> (Last accessed 9 May 2025).

²³¹ *Ibid.*

²³² International Committee of the Red Cross, "Devastating Earthquake in Myanmar: ICRC responds to Help People on the Ground" (1 April 2025). Url: <https://www.icrc.org/en/article/devastating-earthquake-myanmar-icrc-responds-help-people-ground> (Last accessed 9 May 2025).

²³³ International Committee of the Red Cross, "Myanmar: Landmine awareness saves lives amid conflict and natural disasters" (4 April 2025). Url: <https://www.icrc.org/en/article/myanmar-landmine-awareness-saves-lives> (Last accessed 9 May 2025).

²³⁴ *Ibid.*

²³⁵ International Committee of the Red Cross, "Myanmar: Operational Facts and Figures – January to December 2024" (6 March 2025). Url:

As it can be inferred, the work of the Committee in Myanmar, always guided by the Fundamental Principles of the Movement, is more concerned with ensuring that the basic needs of the population are met and less with the promotion of international humanitarian law. This does not mean, however, that this aspect is thoroughly neglected by the Committee. To mention just one instance, as of 2024, the ICRC was able to provide support to 5,162 detainees released from prison and to 1,520 people who gained access to prison to visit detainees²³⁶. This helps illustrate that both humanitarian practice and international humanitarian law are at the basis of the work of the International Committee of the Red Cross in Myanmar.

3.3 The ICRC in Ukraine

The presence of the ICRC in Ukraine is quite recent and linked to the heightening of tensions in the region. The Committee established itself in the country in 2014, when the crisis between Ukraine and Russia began, and significantly increased its activities following the 2022 full-scale invasion of the country by the Russian Federation. On February 26 2022, two days after the resumption of hostilities, the Head of the ICRC Delegation in Kyiv urged both Russia and Ukraine to comply with their obligations under international humanitarian law. The ICRC highlighted that all military operations are to be conducted with due respect for the safety of civilians and advocated that military objectives near areas inhabited by civilians be avoided²³⁷.

The scope of action of the Committee in Ukraine is expanded because it heavily relies on other components of the Movement, such as National Societies from many countries. From a geographical point of view, the ICRC has its delegations in Lviv, Kyiv, Kharkiv, Dnipro, Odesa, Luhansk, and Donetsk and other centers located in neighboring countries such as Hungary, Moldova, Poland, Romania, and Russia²³⁸. It is important to stress the presence of the Committee in Russia, as it proves that it always

<https://www.icrc.org/en/report/myanmar-operational-facts-figures-jan-dec-2024> (Last accessed 9 May 2025).

²³⁶ International Committee of the Red Cross, “Where We Work - Myanmar”. Url: <https://www.icrc.org/en/where-we-work/myanmar#text941363> (Last accessed 9 May 2025).

²³⁷ American Red Cross, “Ukraine Crisis: A Statement by Florence Gillette, Head of ICRC Delegation in Kyiv” (26 February 2022). Url: <https://www.redcross.org/about-us/news-and-events/press-release/2022/ukraine-crisis-a-statement-by-florence-gillette-head-of-icrc-delegation-in-kyiv.html> (Last accessed 14 May 2025).

²³⁸ International Committee of the Red Cross, “Where We Work - Ukraine”. Url: <https://www.icrc.org/en/where-we-work/ukraine> (Last accessed 14 May 2025).

performs its duties in light of impartiality and neutrality. As it usually does, the Committee has been acting in an arguably-double fashion, by both providing emergency assistance and performing its diplomatic role in the field of international humanitarian law.

After the 2014 attacks in Eastern Ukraine, the ICRC had the capacity to deploy 140 of its staff to provide assistance where needed. These activities ranged from supplying construction materials to helping repair destroyed water systems. Also, the Committee assisted the displaced, and civilian people in general, with the provision of health care services being a priority²³⁹. The ICRC also never neglected its role as a neutral intermediary and regularly assisted detainees and was ready if they were to be released. As the fighting was most intense in the Eastern part of the country, the Committee deemed it necessary to concentrate its activities in the Donetsk, Kharkiv, Luhansk, and Severodonetsk regions, near the Russian border²⁴⁰. It must be noted that while in 2014 the ICRC could rely on 140 staff members in Ukraine, these numbers have increased, amounting now to 750²⁴¹.

From an emergency assistance perspective, the work of the Committee in Ukraine plays a fundamental role in providing people affected by this international armed conflict with basic livelihoods. As the figures of the ICRC's work in Ukraine in 2024 reveal, more than 2,700,000 people were supported in having access to essential services such as water and electricity, 21 hospitals were given donations and medical equipment, and 88,111 people received food. Similarly, in the Luhansk and Donetsk regions, 39,500 were provided with food and 122,000 with access to water. The same has been done in Russia, where thousands of people affected by the escalation of violence received financial assistance and pharmacy vouchers. Importantly, all this has been possible also thanks to the cooperation with 60 Red Cross and Red Crescent Societies that offered their services²⁴².

²³⁹ International Committee of the Red Cross, "Ukraine crisis: Striving to reach people in need" (30 October 2014). Url: <https://www.icrc.org/en/document/ukraine-crisis-striving-reach-people-need> (Last accessed 14 May 2025).

²⁴⁰ *Ibid.*

²⁴¹ International Committee of the Red Cross, "Where We Work - Ukraine". Url: <https://www.icrc.org/en/where-we-work/ukraine> (Last accessed 14 May 2025).

²⁴² International Committee of the Red Cross, "Russia-Ukraine International Armed Conflict: The value of neutrality for humanitarian work" (21 February 2025). Url: <https://www.icrc.org/en/article/russia-ukraine-international-armed-conflict-value-neutrality-humanitarian-work> (Last accessed 14 May 2025).

The numbers illustrated above are significant and tell much of the effort of the ICRC in alleviating the suffering caused to people by the violence of the armed conflict between the two countries. However, what is most remarkable about the work of the Committee in Ukraine is its role as a neutral intermediary, in relation to protection and family links services. Following the events of February 2022, the ICRC has established a dedicated Ukraine Bureau of its Central Tracing Agency to provide information to the family of detainees or of those fallen into the hands of the enemy²⁴³. The Bureau acts in its capacity as a neutral intermediary and is assisted by 50 Red Cross and Red Crescent Societies and 28 ICRC delegations in the collection and transmission from one side to the other of the border of information regarding the missing ones²⁴⁴. As of April 2025, the Office had been able to provide information to 13,600 families and exchange 15,000 personal messages between prisoners of war and their loved ones²⁴⁵.

Another important aspect of the activities the Committee carries out in Ukraine is related to safe-passage operations, namely to guaranteeing humanitarian corridors. These corridors are possible when parties from both sides agree to allow the evacuation of civilians or wounded or the passage of humanitarian aid at a specific moment through a designated area. From an IHL perspective, there is no clear regulation of humanitarian corridors. However, the norms about the protection of civilians and the wounded are applicable to humanitarian corridors as to other circumstances. In Ukraine, in a few months from the intensification of hostilities, the ICRC and other partners such as the Ukrainian Red Cross Society and the United Nations evacuated thousands of civilians from the cities of Mariupol and Sumy²⁴⁶. Additionally, after the region of Kursk was hit by hostilities, during three months approximately 140 people were repatriated either to Ukraine or Russia. This was possible through passages that also touched Belarus and in

²⁴³ International Committee of the Red Cross, “Russia–Ukraine international armed conflict: Your questions answered about the ICRC’s work” (26 June 2024). Url: <https://www.icrc.org/en/document/false-information-about-icrc-ukraine> (Last accessed 14 May 2025).

²⁴⁴ International Committee of the Red Cross, “ICRC’s Central Tracing Agency Bureau for the International Armed Conflict between the Russian Federation and Ukraine: Providing answers to families” (2 June 2022). Url: <https://www.icrc.org/en/document/central-tracing-agency-missing-persons-ukraine> (Last accessed 15 May 2025).

²⁴⁵ International Committee of the Red Cross, “ICRC’s Central Tracing Agency Bureau for the International Armed Conflict between the Russian Federation and Ukraine - Statistics”. Url: https://www.icrc.org/sites/default/files/2025-05/CTA-B_monthly_statistics_April_2025_ENG.pdf

²⁴⁶ International Committee of the Red Cross, “How humanitarian corridors work to help people in conflict zones” (3 June 2022). Url: <https://www.icrc.org/en/document/how-humanitarian-corridors-work> (Last accessed 15 May 2025).

close cooperation with both the Russian and the Ukrainian Red Cross Societies²⁴⁷. These operations particularly reflect the spirit of neutrality of the Committee since civilians are repatriated to both sides and no preference is given to citizens of either country.

A further important field of action of the ICRC in Ukraine is its forensic work. In its capacity as a neutral observer, the Committee monitors that authorities of both parties duly conduct the repatriation of the remains of fallen soldiers. These activities also include the identification of unknown soldiers²⁴⁸, to which the ICRC can contribute through its Central Tracing Agency. International humanitarian law standards dictate that the remains of those fallen in combat and of civilians who died during armed conflicts must be managed with dignity at all times²⁴⁹.

In addition, the ICRC is engaged in communication efforts. In fact, it provides information to citizens about the risks they incur. In particular, children and young people are briefed about the dangers caused by mines, cluster munitions, and other unexploded devices. In partnership with the Ukrainian Red Cross, the ICRC delivered safety sessions for 67,000 children and 124 teachers between 2023 and 2024. Training is usually provided in collaboration with schools and lyceums but is also addressed to other institutions, such as the State Emergency Service of Ukraine. Feedback from students proved that many more citizens are now aware of the risks posed by the conflict to everyday life, particularly in potentially mined areas²⁵⁰. Moreover, in 2024 only, 5,595 citizens have been trained in safe practices and risk awareness sessions and are able to identify and stay away from explosive ordnance. To this end, the Committee

²⁴⁷ International Committee of the Red Cross, “Russia-Ukraine International Armed Conflict: Helping civilians cross frontlines and borders” (31 March 2025). Url: <https://www.icrc.org/en/article/russia-ukraine-international-armed-conflict-helping-civilians-cross-frontlines-and-borders> (Last accessed 16 May 2025).

²⁴⁸ International Committee of the Red Cross, “Russia-Ukraine International Armed Conflict: The value of neutrality for humanitarian work” (21 February 2025). Url: <https://www.icrc.org/en/article/russia-ukraine-international-armed-conflict-value-neutrality-humanitarian-work> (Last accessed 16 May 2025).

²⁴⁹ International Committee of the Red Cross, “Humanity after life: Respecting and Protecting the Dead” (3 April 2025). Url: <https://www.icrc.org/en/document/humanity-after-life-respect-and-protection-dead> (Last accessed 16 May 2025).

²⁵⁰ International Committee of the Red Cross, “Ukraine: As a new school year begins, safety lessons about the dangers of explosive ordnance remain vital” (27 September 2024). Url: <https://www.icrc.org/en/article/ukraine-safety-lessons-dangers-explosive-ordnance> (Last accessed 16 May 2025).

has also made use of content producers that tailored specific communication techniques²⁵¹.

All the activities of the ICRC, in Ukraine as in most of the regions in which it deploys its operation, are possible thanks to a confidential dialogue that takes part with both parties in conflict. However, while many aspects of the talks with national authorities are kept strictly secret, there is a balance that must be maintained as proper communication with those affected by the conflict must be ensured as well. Transparency is also important for the ICRC to be globally accountable. The goal of communication in this field is double. On the one hand, the Committee deems it important to give a proper account of the impact of hostilities on civilians, and, on the other hand, at present, it is also fundamental to combat fake news and misinformation²⁵².

In Ukraine, as it can be inferred, the Committee is able to deploy operations and act whenever needed. This is remarkable also for the volatility of tensions in the country, which makes it even more challenging for the ICRC to adapt itself and its *modus operandi* to unpredictable scenarios, both in relation to emergency assistance on the field and to the role of the Committee in IHL. The ICRC operates at its own risk. Lamentably, episodes of killings of its staff members, which should be protected, have also occurred²⁵³.

3.4 Conclusion

As it has been shown, the International Committee of the Red Cross is not a monolithic institution. Even though its origins date back to 19th century Europe, its action now touches regions in all continents. The Committee also needs to adapt itself to challenges that constantly arise, associated with the peculiarities of the scenarios in which its operations take place. In Israel and the Occupied Territories, in Myanmar, and in Ukraine, the ICRC is always ready to take action to help those in need. This is

²⁵¹ International Committee of the Red Cross, “A Week in Ukraine” (4 April 2025). Url: <https://www.icrc.org/en/article/week-ukraine-landmine> (Last accessed 16 May 2025).

²⁵² Ariane Bauer, “Putting into Practice the Geneva Conventions: International Committee of the Red Cross”, *Journal of International Affairs* 75, no. 2 (2023).

²⁵³ International Committee of the Red Cross, “Ukraine: 3 ICRC staff killed after shelling hits aid distribution site in Donetsk region” (12 September 2024). Url: <https://www.icrc.org/en/news-release/ukraine-3-icrc-staff-killed-after-shelling-hits-aid-distribution-site-donetsk> (Last accessed 16 May 2025).

possible also thanks to the collaboration and support of all the components of the Red Cross and Red Crescent Movement. The help brought by the ICRC is fundamental for mainly two reasons, from which all its activities have their origins. In fact, the Committee is engaged in providing emergency humanitarian assistance on one side and in advocating for the application of international humanitarian law during hostilities on the other. Importantly, all the tasks of the ICRC are performed “for the faithful application of international humanitarian law”²⁵⁴, in light of the Four Geneva Conventions and the Three Additional Protocols.

²⁵⁴ Statutes of the International Committee of the Red Cross, art. 4, par. 1, letter c.

Conclusion

In a world plagued by immense suffering, the International Committee of the Red Cross has been, and still is, at the frontline in working in the light of the “Fundamental Principles of the Movement, namely humanity, impartiality, neutrality, independence, voluntary service, unity and universality”²⁵⁵.

As it can be inferred from what has been illustrated in the present thesis, the work of the Committee can be declined in various fields, depending on the peculiarities of each scenario. Importantly, notwithstanding the diverse needs of the regions in which the Committee acts, the aforementioned Fundamental Principles constantly guide it. From an IHL perspective, the ICRC is first and foremost the father and the guardian of the Four Geneva Conventions of 1949 and the Three Additional Protocols of 1977 and 2005. As previously demonstrated, its role is almost universally recognized and these documents now are regarded as the main sources of international humanitarian law, with many of their provisions also amounting to customary international law. From a more practical point of view, the overview of the work of the Committee throughout the world that has been provided in this thesis has shown that humanitarian work needs constant adaptation to ensure compliance with international humanitarian law and, more broadly, for trying to limit human suffering as much as it is possible.

The uniqueness and the *sui generis* nature of the ICRC is, arguably, one of its main strengths and what has allowed it to survive for over 150 years. From its early days, the Committee has been able to achieve unimaginable results. In August 1864, the then Permanent International Committee for the Relief of Wounded Soldiers managed to gather representatives of twelve European States and make them sign the Convention for the Amelioration of the Condition of the Wounded in Armies in the Field. This represents the first occasion in which sovereign States agreed to be bound not to go beyond certain thresholds in the conduct of hostilities. Importantly, the Committee could favor, to different extents, the adoption of other documents of the same kind over the decades.

²⁵⁵ Statutes of the International Committee of the Red Cross, art. 4, par. 1, letter a.

In the course of time, the ICRC has acquired more prominence. In fact, it is now considered to have international legal personality²⁵⁶. Although this feature is challenged and not universally acknowledged, it gives the Committee the possibility of engaging with various actors in the international scene. Moreover, the Committee has a universal reach also thanks to the International Red Cross and Red Crescent Movement, of which it is part. At present, 191 National Societies are officially recognized as members of the Movement and can provide support to the work of the Committee.

The International Committee of the Red Cross has received the mandate to “work for the faithful application of international humanitarian law”²⁵⁷. This, as shown, is a quite vague task that allows the Committee to act in different directions. If thinking of the application of IHL *stricto sensu*, the Committee engages in various projects. While it acknowledges the difficulty in the present international environment of having States willing to sign binding documents, the ICRC is committed to the diffusion of international humanitarian law principles, be it through the International Review of the Red Cross or through the 2005 Study of Customary International Humanitarian Law. In this vein, it has been shown that the Committee also organizes sessions to brief affected populations on the main IHL norms.

The application of international humanitarian law, however, also entails working in the field. At present, the ICRC has deployed operations in various complex and fragile scenarios. This thesis has tried to outline what the ICRC does in Israel and the Occupied Territories, Myanmar, and Ukraine. To different degrees and in different forms, all these regions have been experiencing breaches of international humanitarian law that, regrettably, cause immense human suffering. Either by advocating for the respect of the Geneva Conventions and the Additional Protocols, and of IHL in general, or by providing humanitarian assistance, the ICRC’s personnel are relentlessly working to assist victims of armed conflicts.

The present thesis has analyzed both the characteristics and the work of this unique institution. In the first chapter, a historical analysis of the ICRC from its earliest days until today has clarified the legal status and nature of the Red Cross Movement, which also includes the Federation and National Societies. Chapter two has been devoted to analyzing international humanitarian law. This body of law originates from

²⁵⁶ *Ibid.* art. 2, par. 2.

²⁵⁷ *Ibid.* art. 4, par. 1, letter c.

19th-century legal practice and thinking that acknowledged the need to put constraints on the conduct of hostilities. As it has been previously outlined, the ICRC has brought major contributions to IHL both with the work for the adoption of the Geneva Conventions and the Additional Protocols and with the dissemination of international humanitarian law principles. In the last chapter, an overview of the work of the Committee on the field provided an examination of how the ICRC acts in Israel and the Occupied Territories, Myanmar, and Ukraine. Importantly, these three scenarios illustrate not only how the Committee operates but also the challenges it faces in carrying out its humanitarian duties.

The International Committee of the Red Cross lists in its Statutes two mottos, namely *Inter arma caritas* (i.e. “In war, charity”) and *Per humanitatem ad pacem* (i.e. “With humanity, towards peace”)²⁵⁸. It may sound excessively simplistic, but the two mottos perfectly indicate how the International Committee of the Red Cross operates.

²⁵⁸ *Ibid.* art. 3, par. 4.

References

Bibliography

Aeschlimann, A., “Protection of detainees: ICRC action behind bars”, *International Review of the Red Cross* 87, no. 857 (2005): 83-122.

Akram, S. M. and Lynk, M., “Arab-Israeli Conflict”, in *Max Planck Encyclopedias of International Law* (Oxford: Oxford University Press, 2023).

Aldrich, G. H., “New Life for the Laws of War”, *The American Journal of International Law* 75, no. 4 (1981): 764-783.

Baker, A., “International Humanitarian Law, ICRC and Israel’s Status in the Territories”, *International Review of the Red Cross* 94, no. 888 (2012): 1511-1521.

Bauer, A., “Putting into Practice the Geneva Conventions: International Committee of the Red Cross”, *Journal of International Affairs* 75, no. 2 (2023).

Bellal, A. and Casey-Maslen, S., “The Scope of Application of the Three Additional Protocols”, *The Additional Protocols to the Geneva Conventions in Context* (Oxford: Oxford University Press, 2022): 7-25.

Bernstorff, J. von, “Martens Clause”, in *Max Planck Encyclopedias of International Law* (Oxford: Oxford University Press, 2023).

Blishchenko, I. P., “Adoption of the 1977 Additional Protocols”, *International Review of the Red Cross*, no. 320 (1997): 511-514.

Boissier, P., “The Early Years of the Red Cross”, *International Review of the Red Cross*, no. 24 (1963): 122-139.

Bothe, M. *et al.*, “Historical Development and Legal Basis”, in *The Handbook of International Humanitarian Law, Fourth Edition*, ed. Dieter Fleck (Oxford: Oxford University Press, 2021): 10-49.

Bugnion, F., “Birth of an Idea: The Founding of The International Committee of the Red Cross and of the International Red Cross and Red Crescent Movement: From Solferino to the Original Geneva Convention (1859-1864)”, *International Review of the Red Cross* 94, no. 888 (2012): 1299-1338.

Bugnion, F., “ICRC action during the Second World War”, *International Review of the Red Cross*, no. 317 (1997): 156-177.

Bugnion, F., “The Geneva Conventions of 12 August 1949: from the 1949 Diplomatic Conference to the Dawn of the New Millennium”, *International Affairs* 76, no. 1 (2000): 41-50.

Burkle, F. M., “Revisiting the Battle of Solferino: The Worsening Plight of Civilian Casualties in War and Conflict”, *Disaster Medicine and Public Health Preparedness* 13, no. 5-6 (2019):837-841.

Cameron, L. *et al.*, “The Updated Commentary on the First Geneva Convention—A New Tool for Generating Respect for International Humanitarian Law”, *International Review of the Red Cross* 97, no. 900 (2015): 1209-1226.

Clapham, A. “The Complex Relationship between the Geneva Conventions and International Human Rights Law”, in *The 1949 Geneva Conventions: A Commentary*, eds. Andrew Clapham, Paola Gaeta, and Marco Sassòli (Oxford: Oxford University Press, 2015): 701-736.

Debuf, E., “Tools to do the job: the ICRC’s Legal Status, Privileges and Immunities”, *International Review of the Red Cross* 97, no. 897-898 (2015): 319-344.

Del Vecchio, G., “On The History of The Red Cross”, *Journal of The History of Ideas* 24, no. 4 (1963): 577-583.

De Preux, J. “Synopsis I: Protecting Power”, *International Review of the Red Cross*, no. 245 (1985): 86-95.

Dinstein, Y., “The ICRC Customary International Humanitarian Law Study”, *International Law Studies* 82, no. 1 (2006): 99-112.

Dormann, K., “The Role of Nonstate Entities in Developing and Promoting International Humanitarian Law”, *Vanderbilt Law Review* 51, no. 3 (2018): 713-726.

Doswald-Beck, L. and Vite, S. “International Humanitarian Law and Human Rights Law”, *International Review of the Red Cross*, no. 293 (1993): 94-119.

Droege, C., “International Humanitarian Law and Peace: A Brief Overview”, *International Review of the Red Cross*, no. 927 (2025): 989-1001.

Dunant, H., *A Memory of Solferino* (Geneva: International Committee of the Red Cross, 1986).

Durand, A., “Origin and Evolution of the Statutes of the International Red Cross”, *International Review of the Red Cross*, no. 235 (1983): 175-208.

Durand, A., “The Geneva Conference of August 1864 as seen by the Geneva Press”, *International Review of the Red Cross*, no. 271 (1989): 282-305.

Forsythe, D. P., “The ICRC as seen through the Pages of the Review, 1869-1913: Personal Observations”, *International Review of the Red Cross* 100, no. 907-909 (2018): 45-69.

Forsythe, D. P., “The Red Cross as Transnational Movement: Conserving and Changing the Nation-State System”, *International Organization* 30, no. 4 (1976): 607-630.

Freymond, J. “El Comité Internacional de la Cruz Roja y la Protección de las Víctimas de la Guerra”, *Revista Internacional de la Cruz Roja*, no. 130 (1994): 523-527.

Gaeta, P. *et al.*, *Cassese’s International Law* (Oxford: Oxford University Press, 2020).

Gasser, H. “International Committee of the Red Cross (ICRC)”, in *Max Planck Encyclopedias of International Law* (Oxford: Oxford University Press, 2016).

Gazzini, T. “A Unique Non-State Actor: the International Committee of the Red Cross”, *Human Rights & International Legal Discourse* 4, no. 1 (2010): 32-56.

Giladi, R, and Ratner, S., “The Role of the International Committee of the Red Cross”, in *The 1949 Geneva Conventions: A Commentary*, eds. Andrew Clapham, Paola Gaeta, and Marco Sassòli (Oxford: Oxford University Press, 2015): 525-548.

Gutteridge, J. A. C., “The Geneva Conventions of 1949”, *British Yearbook of International Law*, no. 26 (1949): 294-326.

Harroff-Tavel, M. “Neutrality and Impartiality: The importance of these principles for the International Red Cross and Red Crescent Movement and the difficulties involved in applying them”, *International Review of the Red Cross*, no. 273 (1989): 536-552.

Hamer, S., “1863: The Creation of the First National Society at the Beginning of the Movement’s History”, *International Review of the Red Cross* 94, no. 888 (2012): 1339-1347.

Henckaerts, J. M., "Customary international humanitarian law: taking stock of the ICRC study", *Nordic Journal of International Law* 78, no. 4 (2009): 435-468.

Horsey, R., "Myanmar Is Fragmenting—but Not Falling Apart: Why Outside Actors Should Work More Closely With Nonstate Groups", *Foreign Affairs* (31 May 2024).

Hutchinson, J. F., "Rethinking The Origins of the Red Cross", *Bulletin of the History of Medicine* 63, no. 4 (1989): 557-578.

International Committee of the Red Cross, *Myanmar Strengthening Community Resilience Project (SCORE) (P508006) - Stakeholder Engagement Plan*, March 2025.

"Adoption of an Additional Distinctive Emblem", *International Review of the Red Cross* 88, no. 186 (2006): 187-196.

"Application of the Geneva Conventions—particularly the Fourth—in Territory Occupied by Israel", *International Review of the Red Cross*, no. 87 (1968):301-303.

Jaquet, E. L. and Schoenholzer, J. P., "Central Tracing Agency", *International Review of the Red Cross*, no. 45 (1964): 638-643.

Jins, D., "International Human Rights Law in Time of Armed Conflict", in *The Oxford Handbook of International Law in Armed Conflict*, eds. Andrew Clapham and Paola Gaeta (Oxford: Oxford University Press, 2014): 656-674.

Katz, M. "The Central Tracing Agency of the ICRC", *International Review of the Red Cross*, no. 199 (1977): 407-412.

Kellenberger, J., “The Role of the International Committee of the Red Cross”, in *The Oxford Handbook of International Law in Armed Conflict*, eds. Andrew Clapham and Paola Gaeta (Oxford: Oxford University Press, 2014): 20-34.

Koutroulis, V., “The application of international humanitarian law and international human rights law in situation of prolonged occupation: only a matter of time?”, *International Review of the Red Cross* 94, no. 885 (2012): 165-205.

Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, *I.C.J. Reports* 2004.

Ledermann, L., “The International Organization of the Red Cross and the League of Red Cross Societies”, *The American Journal of International Law* 42, no. 3 (1948): 635-644.

Levie, H. S., “Prisoners of War and the Protecting Power”, *The American Journal of International Law* 70, no. 2 (1961): 29-52.

Maurer, P., “Challenges to international humanitarian law: Israel’s occupation policy”, *International Review of the Red Cross* 94, no. 888 (2012): 1503-1510.

Melzer, M., “Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law”, *International Committee of the Red Cross* (Geneva: International Committee of the Red Cross, 2009).

Oppenheimer, M. *et al.*, “Resilient Humanitarianism? Using Assemblage to reevaluate the History of the League of the Red Cross Societies”, *The International History Review* 43, no. 3 (2012): 579-597.

Palmieri, D., “An Institution Standing the Test of Time? A Review of 150 Years of the History of the International Committee of the Red Cross”, *International Review of the Red Cross* 94, no. 888 (2012): 1273-1298.

Quéguiner, J. F., “Commentary on the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III)”, *International Review of the Red Cross* 89, no. 865 (2007): 175-207.

“L’Origine du Signe de la Croix Rouge”, *Revue Internationale de la Croix-Rouge* no. 426, (Juin 1872): 456-467.

Rubin, B., “Israel, Occupied Territories”, in *Max Planck Encyclopedias of International Law* (Oxford: Oxford University Press, 2023).

Tomuschat, C., “Mitigating the Effects of Armed Conflict: Humanitarian Law”, in *Human Rights: Between Idealism and Realism*, ed. Christian Tomuschat (Oxford: Oxford University Press, 2014): 337-364.

Torres, A. M., “International Committee of the Red Cross: Emblem of Humanity”, *Marketing intelligence & planning* 28, no. 2 (2010): 223-235.

Vanni, D. *et al.*, “Medical Doctors and The Foundation of The International Red Cross”, *Internal and Emergency Medicine*, 2017, no.13: 301-305.

Yingling, R. T. and Ginnane, R. W., “The Geneva Conventions of 1949”, *The American Journal of International Law* 46, no. 3 (1952): 393-427.

Legal Instruments

A/RES/45/6.

By-Laws of the Italian Red Cross.

Charter of the United Nations.

Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949.

Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949.

Statutes of the International Committee of the Red Cross.

Statutes of the International Red Cross and Red Crescent Movement.

Web Sources

“First trickle of aid in 3 months after Israel allows limited food into Gaza”, *Al Jazeera*, May 19, 2025. Url: <https://www.aljazeera.com/news/2025/5/19/israel-to-allow-limited-food-into-gaza-amid-intensified-military-offensive> (Last accessed 20 May 2025).

American Red Cross, “Ukraine Crisis: A Statement by Florence Gillette, Head of ICRC Delegation in Kyiv” (26 February 2022). Url: <https://www.redcross.org/about-us/news-and-events/press-release/2022/ukraine-crisis-a-statement-by-florence-gillette-head-of-icrc-delegation-in-kyiv.html> (Last accessed 14 May 2025).

Belgian Red Cross Flanders, “Conflict in Israel and the Occupied Palestinian Territories”. Url: <https://en.rodekruis.be/hulp/conflict/> (Last accessed 12 May 2025).

Deutsches Rotes Kreuz, “Gemeinsam für eine große Sache”. Url: <https://www.drk.de/das-drk/geschichte/das-drk-von-den-anfaengen-bis-heute/1850/1869/> (Last accessed on 19 March 2025).

Humanitarian Action, Global Humanitarian Overview 2025 - Myanmar. Url: <https://humanitarianaction.info/document/global-humanitarian-overview-2025/article/myanmar-2> (Last accessed 9 May 2025).

ICRC Database, “Convention for the Amelioration of the Condition of the Wounded in Armies in the Field”, *Treaties, States Parties and Commentaries*, Geneva, 22 August 1864. States, Parties and Signatories. Url: <https://ihl-databases.icrc.org/en/ihl-treaties/gc-1864/state-parties?activeTab=#footnote-1> (Last accessed on 18 March 2025).

ICRC Database, “Resolutions of the Geneva International Conference”, *Treaties, States Parties and Commentaries*. Geneva, 26-29 October 1863. Url:

<https://ihl-databases.icrc.org/en/ihl-treaties/geneva-res-1863/article-1?activeTab=> (Last accessed on 17 March 2025).

ICRC Database, “Treaties and State Parties”, *Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III)*, 8 December 2005. Url: <https://ihl-databases.icrc.org/en/ihl-treaties/apiii-2005/state-parties?activeTab=default#footnote-1> (Last accessed 17 May 2025).

ICRC Database, “Treaties and State Parties”, *Treaties and State Parties*. Url: <https://ihl-databases.icrc.org/en/ihl-treaties/treaties-and-states-parties?title=&topic=&state=&from=&to=&sort=topic&order=DESC> (Last access on 17 April 2025).

IFRC, “About National Societies”. Url: <https://www.ifrc.org/who-we-are/international-red-cross-and-red-crescent-movement/about-national-societies> (Last Accessed on 19 March 2025).

International Committee of the Red Cross, “A Week in Ukraine” (4 April 2025). Url: <https://www.icrc.org/en/article/week-ukraine-landmine> (Last accessed 16 May 2025).

International Committee of the Red Cross, “Devastating Earthquake in Myanmar: ICRC responds to Help People on the Ground” (1 April 2025). Url: <https://www.icrc.org/en/article/devastating-earthquake-myanmar-icrc-responds-help-people-ground> (Last accessed 9 May 2025).

International Committee of the Red Cross, “Gaza: Common Kitchens feed Thousands as Food Stocks dwindle” (22 April 2025). Url: <https://www.icrc.org/en/article/gaza-common-kitchens-feed-thousands> (Last accessed 12 May 2025).

International Committee of the Red Cross, “How humanitarian corridors work to help people in conflict zones” (3 June 2022). Url: <https://www.icrc.org/en/document/how-humanitarian-corridors-work> (Last accessed 15 May 2025).

International Committee of the Red Cross, “Humanity after life: Respecting and Protecting the Dead” (3 April 2025). Url: <https://www.icrc.org/en/document/humanity-after-life-respect-and-protection-dead> (Last accessed 16 May 2025).

International Committee of the Red Cross, “ICRC outraged as premises in Gaza struck and damaged by explosive” (17 April 2025). Url: <https://www.icrc.org/en/news-release/icrc-outraged-premises-damaged-explosive> (Last accessed 13 May 2025).

International Committee of the Red Cross, “ICRC’s Central Tracing Agency Bureau for the International Armed Conflict between the Russian Federation and Ukraine: Providing answers to families” (2 June 2022). Url: <https://www.icrc.org/en/document/central-tracing-agency-missing-persons-ukraine> (Last accessed 15 May 2025).

International Committee of the Red Cross, “ICRC’s Central Tracing Agency Bureau for the International Armed Conflict between the Russian Federation and Ukraine - Statistics”. Url: https://www.icrc.org/sites/default/files/2025-05/CTA-B_monthly_statistics_April_2025_ENG.pdf

International Committee of the Red Cross, “Israel and the occupied Palestinian territory: The law of occupation must be respected” (19 July 2025). Url: <https://www.icrc.org/en/statement/israel-and-occupied-palestinian-territory-law-occupation-must-be-respected> (Last accessed 13 May 2025).

International Committee of the Red Cross, “Israel and the occupied territories: ICRC appalled by killing of PRCS medics and first responders” (30 March 2025). Url: <https://www.icrc.org/en/news-release/israel-and-occupied-territories-icrc-appalled-killin-g-prcs-medics> (Last accessed 13 May 2025).

International Committee of the Red Cross, “Israel and the occupied territories: ICRC completes second phase of release operations, reuniting more families” (25 January 2025). Url: <https://www.icrcnewsroom.org/story/en/881/israel-and-the-occupied-territories-icrc-completes-second-phase-of-release-operations-reuniting-more-families> (Last accessed 13 May 2025).

International Committee of the Red Cross, “Israel and the occupied territories: ICRC facilitates return of remains, detainees under ceasefire agreement” (27 February 2025). Url: <https://www.icrc.org/en/news-release/israel-and-occupied-territories-icrc-facilitates-return-remains-detainees> (Last accessed 13 May 2025).

International Committee of the Red Cross, “Myanmar: Landmine awareness saves lives amid conflict and natural disasters” (4 April 2025). Url: <https://www.icrc.org/en/article/myanmar-landmine-awareness-saves-lives> (Last accessed 9 May 2025).

International Committee of the Red Cross, “Myanmar: Operational Facts and Figures – January to December 2024” (6 March 2025). Url: <https://www.icrc.org/en/report/myanmar-operational-facts-figures-jan-dec-2024> (Last accessed 9 May 2025).

International Committee of the Red Cross, “Our History”. Url: <https://www.icrc.org/en/our-history> (Last accessed on 19 March 2025).

International Committee of the Red Cross, “Our Mandate”. Url: <https://www.icrc.org/en/our-mandate-and-mission#big-ideas939600> (Last accessed on 8 May 2025).

International Committee of the Red Cross, “Red Cross Field Hospital in Rafah, Gaza Strip: Facts & Figures 9 May 2024 – 12 April 2025” (7 May 2025). Url: <https://www.icrc.org/en/article/red-cross-field-hospital-rafah-gaza-strip-facts-figures-february-2025> (Last accessed 12 May 2025).

International Committee of the Red Cross, “Red Cross opens new 60-bed field hospital in Gaza” (14 May 2024) Url: <https://www.icrc.org/en/document/red-cross-opens-new-60-bed-field-hospital-gaza> (Last accessed 12 May 2025).

International Committee of the Red Cross, “Russia-Ukraine International Armed Conflict: Helping civilians cross frontlines and borders” (31 March 2025). Url: <https://www.icrc.org/en/article/russia-ukraine-international-armed-conflict-helping-civilians-cross-frontlines-and-borders> (Last accessed 16 May 2025).

International Committee of the Red Cross, “Russia-Ukraine International Armed Conflict: The value of neutrality for humanitarian work” (21 February 2025). Url: <https://www.icrc.org/en/article/russia-ukraine-international-armed-conflict-value-neutrality-humanitarian-work> (Last accessed 14 May 2025).

International Committee of the Red Cross, “Russia–Ukraine international armed conflict: Your questions answered about the ICRC’s work” (26 June 2024). Url: <https://www.icrc.org/en/document/false-information-about-icrc-ukraine> (Last accessed 14 May 2025).

International Committee of the Red Cross, “The Red Cross Field Hospital One Year On: A Lifeline and a Stark Reminder in Gaza” (7 May 2025).

Url:<https://www.icrc.org/en/article/red-cross-field-hospital-one-year-lifeline-and-stark-reminder-gaza> (Last accessed 12 May 2025).

International Committee of the Red Cross, “Ukraine: As a new school year begins, safety lessons about the dangers of explosive ordnance remain vital” (27 September 2024). Url: <https://www.icrc.org/en/article/ukraine-safety-lessons-dangers-explosive-ordnance> (Last accessed 16 May 2025).

International Committee of the Red Cross, “Ukraine crisis: Striving to reach people in need” (30 October 2014). Url: <https://www.icrc.org/en/document/ukraine-crisis-striving-reach-people-need> (Last accessed 14 May 2025).

International Committee of the Red Cross, “Ukraine: 3 ICRC staff killed after shelling hits aid distribution site in Donetsk region” (12 September 2024). Url: <https://www.icrc.org/en/news-release/ukraine-3-icrc-staff-killed-after-shelling-hits-aid-distribution-site-donetsk> (Last accessed 16 May 2025).

International Committee of the Red Cross, “Where We Work”. Url: <https://www.icrc.org/en/where-we-work> (Last accessed on 8 May 2025).

International Committee of the Red Cross, “Where We Work - Israel and the Occupied Territories”. Url: <https://www.icrc.org/en/where-we-work/israel-and-occupied-territories> (Last accessed 12 May 2025).

International Committee of the Red Cross, “Where We Work - Myanmar”. Url: <https://www.icrc.org/en/where-we-work/myanmar#text941363> (Last accessed 9 May 2025).

International Committee of the Red Cross, “Where We Work - Ukraine”.
Url: <https://www.icrc.org/en/where-we-work/ukraine> (Last accessed 14 May 2025).

International Review of the Red Cross, “About the Review”. Url:
<https://international-review.icrc.org/about/about-review> (Last accessed on 28 April 2025).

Lukiv, J. and Adams, P., “Israel blocks entry of all humanitarian aid into Gaza”,
BBC, March 2, 2025. Url: <https://www.bbc.com/news/articles/c9q4w99je78o> (Last accessed 12 May 2025).

Myanmar Red Cross Society, “Our Partners”. Url:
https://www.redcross.org.mm/en_US/our-partners/ (Last accessed 8 May 2025).

United Nations, “Intergovernmental and Other Organizations”. Url:
<https://www.un.org/en/about-us/intergovernmental-and-other-organizations> (Last accessed on 20 March 2025).

