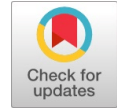


Problems of Legal Regulation of Humanitarian Relief in Armed Conflicts



Mohammed Reada Jalkhy, Ibrahim Shasho, Obada Tamer

Abstract: *Armed conflicts lead to the deterioration of the living conditions of civilians and deprive them of the basic necessities of life, which may result in catastrophic human tragedies, due to the inability of the parties to the conflict to provide basic goods and services or obstruct that. Humanitarian relief work provided by states and humanitarian organizations comes as a decisive and necessary tool to preserve The life, health, and dignity of these people, and this relief is subject to a long-standing legal regulation in international law, which despite its importance in achieving facilitation of humanitarian relief work and ensuring its arrival, but it has some problems that may prevent it, so this study comes as an attempt to identify these problems and put them on the research table Hoping to spark discussion about possible solutions to it so that the goal of the provisions of international law regulating humanitarian relief is achieved in facilitating the arrival of humanitarian relief to those in need at the right time and in the appropriate form.*

Keywords: *Legal Regulations – Humanitarian Relief – Armed Conflicts - Problems of Legal Regulation.*

I. INTRODUCTION

Armed conflicts, whether international or non-international, cause great suffering to many people every year and in all regions of the world, where there are great loss of life, great material damage, and huge needs for food supplies, medical aid, etc., and in these harsh humanitarian conditions, the lifeline is It is to provide urgent humanitarian relief to civilians living in areas of armed conflict [1]. Which is defined as: “urgent foreign aid provided by states and humanitarian organizations to preserve the lives, health, and dignity of civilians who lack basic supplies due to an armed conflict [2].” The delivery of humanitarian aid is regulated by international law, including both humanitarian and human rights law, which offer varying levels of protection [3], through the provisions of international human rights law - which are applied in times of peace as well as in times of war - related to the right to life [4], and the rights arising from it, especially the right to food [5] and the right to health. [6] International humanitarian law, which governs armed

conflicts, also outlines the provisions for facilitating and organizing relief work, as outlined in the four Geneva Conventions of 1949 [7], and the two protocols annexed thereto of 1977 [8].

Despite the importance of these texts in achieving the goal of humanitarian relief work in eliminating human suffering and covering the needs of vulnerable groups resulting from exceptional circumstances, the actual achievement of this goal is limited by several factors, some of which are due to the lack of accuracy in the legal organization of humanitarian relief work or the contradiction of its provisions in Some cases, or their shortcomings in other cases, which may allow many of the parties to whom aid is directed to use these texts according to what serves their interests [9]. This prompted some to admit that there are gaps in the organization of humanitarian relief work stipulated in international law, especially in international humanitarian law [10], which results in impeding relief to the affected and thus the continuation of humanitarian disasters and the enormous tragedies that may result from them.

Hence the importance of studying the topic: "Problems of the legal regulation of humanitarian relief work in armed conflicts", to uncover these problems and put them on the research table in the hope of shedding light on them and provoking discussion about the necessary solutions to them, which ultimately contributes to the implementation of humanitarian relief promptly, and in a manner appropriate to the needs of the victims.

These problems may be at the level of the basic principles governing the provision of humanitarian relief work, which despite its universality has become the subject of questioning or inconsistent interpretation. Relief, and may be represented by the limitations of the scope of providing humanitarian relief, and the scope of protection for those who carry it out.

In order to discuss these problems, we address the first topic the problem of questioning the universality of the principles of humanitarian action and the absence of a common understanding of some of them. In the second topic, we discuss the problems of the prior approval requirement with it.” Then we conclude the research with a conclusion that includes the conclusion and recommendations of the research.

II. THE FIRST TOPIC: QUESTIONING THE UNIVERSALITY OF THE PRINCIPLES OF HUMANITARIAN ACTION AND THE ABSENCE OF A COMMON UNDERSTANDING OF SOME OF THEM.

The operation of actors in the field of humanitarian relief is based on a set of principles that guide them, and they are committed to working under them,

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In order to reach their goal of protecting the victims of armed conflicts and disasters. When talking about these principles, the direction goes directly to the principles unanimously adopted by the Twentieth International Conference of the Red Cross in 1965 [11]. As they constitute common human values that allow them to gain the widest possible acceptance among the concerned parties and thus ensure safe access to those in need of protection and assistance [12], and these principles are expressed by the term "humanitarian principles [13]", which include: the principles of humanity [14], impartiality [15], neutrality [16] and independence [17].

These principles constitute basic restrictions that impose themselves on every provider of humanitarian action, even some believe that they: "express abstract legal concepts that are applied at all times and places because they are derived from the conscience of peoples, just like the general principles of international law. They are the frame of reference and necessary for humanitarian action [18]."

Despite this, humanitarian principles are still a topic under discussion and dialogue in the international community, despite their widespread recognition as the basis for humanitarian action [19], whether in terms of the extent of acceptance of these principles or terms of understanding and thus interpreting these principles, especially the principle of neutrality. First: Questioning the universality of the principles of humanitarian action

There is a degree of skepticism about the same concepts involved in contemporary humanitarian work, as an embodiment of the ideas of the Enlightenment in the nineteenth century, as the number of countries or political entities rejecting humanitarian intervention, whether with aid or programs, because of what they consider alien and dangerous values that have nothing to do with their culture [20], has increased. "This global approach is not actually felt by many of the communities that this approach was designed to help [21]."

The Principles are criticized for reflecting Western values and potentially offending or overpowering local cultures or religions. It is viewed as a new form of postcolonial domination that challenges recipient countries' sovereignty. This is demonstrated by the Western origins of the central entity of the human enterprise, which dates back to the 19th century when Western hegemony and expansion were dominant. Many of the major humanitarian organizations still have strong European or American roots [22].

Therefore, several international and national actors question the legitimacy of principled humanitarian action [23], and thus some humanitarian actors, for example, tend to assist certain communities based on religious or ethnic criteria, and deliberately ignore those communities that meet those criteria, however, a number of many humanitarian relief organizations seek to align their set of values with accepted humanitarian principles [24].

Humanitarian work, as principles and concepts, must be accepted by all, especially the affected population, so that those who carry it out can reach its targets, by seeing that the actors are neutral, independent, and impartial in providing relevant services, especially in politically contested environments [25], especially objection to the universal nature of humanitarian principles may take the form of

outright rejection on the part of extremist armed groups or marauding militia members. This may result in taking hostages and directing direct attacks against humanitarian workers, thus preventing humanitarian actors from working in many areas in the Middle East, the Coastal Area, and Central Africa [26].

Second: the absence of a common understanding of the principle of neutrality the actors that make up the humanitarian sector, despite their wide recognition of humanitarian principles, are not homogeneous, and their interpretation of humanitarian principles may vary greatly [27]. This is mainly embodied in the principle of neutrality. Where non-governmental organizations interpret and understand the principle of neutrality in humanitarian action differ, some of them maintain the traditional concept of this principle, such as the International Committee of the Red Cross [28], which refrains from engaging in any controversy with the parties to the conflict of any kind, including condemnation of the actions of any party, which is What is called remaining silent, as the role of the committee is limited to providing relief to the victims and reaching them, not conveying information to the public [29], bound by the basic guiding principle of impartiality that requires adherence to for the movement to retain the confidence of all so that it can carry out its basic tasks as stipulated in the movement's statute International and the International Committee of the Red Cross [30], noting that public condemnation by the Committee has increased in the past few years [31].

Some of them adopted the solidarity method by abandoning neutrality, according to the vision that humanitarian support By its nature, it is a political action that necessitates taking a political position, such as the Doctors Without Borders organization, which calls for politicized humanitarian action in which political positions stem from a conscious decision that fulfills the employment of humanitarian action as an integral part of international public policy, based on solidarity with the people it helps [32]. By saying and condemning, and supporting the victims against their killers, among the new humanitarian commitments embodied by Doctors Without Borders, which was founded in 1971 AD as an objection to the culture of silence imposed by the Red Cross [33]. The utilitarian approach embraces practical neutrality for the effective implementation of programs, even though it realizes that its involvement in humanitarian operations is not neutral. It believes that maintaining practical neutrality is a crucial factor in ensuring that humanitarian aid reaches those in need [34]. This disparity in accepting, understanding, and interpreting the principles of humanitarian action in international law prompted some to say that: "The traditional principles of humanitarian action are being undermined [35]". This was recognized by the International Committee of the Red Cross, which called for the necessity of negotiating or defining universal principles and values again [36], which was repeated and recommended by the Norwegian Refugee Council through its report on the challenges of humanitarian work in the year 2016, in which it stated:



“Field workers require a shared understanding of humanitarian principles that are adaptable to diverse languages, cultures, and historical backgrounds, achieved through a collaborative approach.

Language plays a crucial role in conveying ideas, and actors must be aware of the cultural and linguistic context in which terms are used and understood [37].”

This idea was also expressed by Vincent Bernard, the Editor-in-Chief of the International Review of the Red Cross, in the editorial of the issue (897/898) under the title "The spirit of humanitarian principles in their practical form," when he said: "The questioning about the nature and universal value of principles indicates an urgent need for a renewed dialogue between Parties that base their thought on foundations of faith, and parties that base their thought on foundations of secular principles, between cultures, religions, and practices of different countries so that this dialogue revolves around understanding human concepts [38].

All of the above indicates the existence of an increasing problem about the extent of acceptance of the principles of humanitarian action, which despite their widespread are still seen as principles coming from the West, which makes humanitarian action as a whole subject to rejection because of the suspicion and suspicion it raises among some of those targeted by humanitarian action. In addition to the problem of the extent of acceptance of these principles, the problem of interpreting these principles, especially neutrality, is a prerequisite for accepting humanitarian action, and all of this exposes the size and scope of humanitarian action to danger [39].

III. THE SECOND TOPIC: THE PROBLEM OF PRIOR APPROVAL

The legality of humanitarian aid in international law depends on its acceptance by the affected country. It is not permissible to force the affected country to accept humanitarian assistance or force others to pass relief convoys through its territory to the territory of a neighboring affected country [40].

Executing aid operations by force on the territory of the concerned state, without obtaining its prior consent or forcing it to agree or obligating it to agree means - in most cases - the illegality of the assistance [41], as the provisions governing humanitarian relief work in international law require obtaining the approval of the sovereign state to Territory - in which assistance operations will take place [42].

Although obtaining prior consent from the affected state is crucial, as it reflects the principle of respect for state sovereignty and non-interference in internal affairs, it raises various problematic issues. This is due to the ambiguity of international humanitarian law provisions or its inability to keep up with international developments, especially the growing number of non-violent international armed conflicts. Some of the most significant problems include:

First: The problem of determining the competent authority to approve the provision of humanitarian assistance, in cases of non-international armed conflicts.

Humanitarian aid directed to victims of natural disasters does not raise any problem regarding prior authorization by the affected country, because both sides (the donor and the affected party) deal based on ethical considerations that

dictate solidarity with the afflicted groups by the international community [43].

In the case of international armed conflicts, obtaining prior authorization for humanitarian aid is not problematic as international humanitarian law requires prior approval from the sovereign country before commencing relief operations and ensuring access to those in need [44].

The issue of consent is also free from any problem in the case of occupied territories, as the competent authority to grant consent is the occupying state and not the legitimate authority [45], because it has effective control over the population [46].

But the problem in determining the competent authority to grant prior approval, is raised by non-international armed conflicts, in the case of areas outside the control of the government, and under the control of the rebels, is it the government that does not have control over the land? Or the revolutionaries who have control of the land?

It is a fundamental problem caused by the ambiguity and contradiction of the provisions of international humanitarian law that dealt with the issue. The second paragraph of Article 3 common to the four Geneva Conventions states that an impartial humanitarian organization, like the International Committee of the Red Cross, may offer its services to conflict parties [47].” There are two possibilities for who has the authority to approve according to this text, according to the party that controls the region, whether the central government or the rebels [48].

However, this text creates a legal debate due to its conflicting with Article 18 of the Second Additional Protocol, which gives consent authority solely to the state and states that relief efforts, carried out in a purely humanitarian and impartial manner without any unfair discrimination, shall be done with the party's consent to benefit the civilian population suffering from severe deprivation, such as lacking essential supplies like food and medicine [49].” That is, the condition of prior consent in non-international conflicts is not complete unless it is obtained from a fully sovereign state, embodying the principle of respecting the sovereignty of the concerned sovereign state. As a prerequisite for announcing humanitarian work [50], even if the aid is for areas outside the control of the state, and thus this article has retracted the progress that was made in the light of the common Article 3, which did not require the approval of the central government to carry out relief work [51].

This legal ambiguity or contradiction may be used by humanitarian organizations to justify their non-intervention due to the fact that they only deal with sovereign states, which negatively affects the right of victims to obtain humanitarian assistance, and contributes to the exacerbation of humanitarian crises. Countries may also take advantage of this ambiguity to refuse to grant their approval for the entry of humanitarian aid to areas outside their control or under the control of the rebels, and this also leads to a bigger problem, which is the arbitrary refusal of humanitarian assistance.

Second: The problem of arbitrary refusal of consent

Furthermore, international law does not clearly state the possibility of providing humanitarian aid without the affected country's consent [52].

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International law, as outlined in the Geneva Conventions and attached protocols for humanitarian aid during armed conflicts, requires it but restricts it to the approval of affected countries, which prompted some to describe this as: "Inconsistent language in international law texts could result in the deprivation of victims' rights to receive humanitarian aid [53]." States take advantage of this, to reject the idea of humanitarian aid, under the pretext that sovereignty is inadmissible, even if it is related to the protection of human rights or in response to humanitarian purposes [54], which may constitute a violation of the rules of international humanitarian law, especially the rule that prohibits the use of starvation as a method of warfare [55].

To assess the issue of arbitrary refusal, the International Law Commission defines the following criteria [56]:

A. Withholding consent to foreign assistance is not considered arbitrary when the state is able and willing to face the disaster adequately and effectively by relying on its own resources.

B. Withholding consent to foreign assistance is not arbitrary if the affected country accepts an appropriate and sufficient amount of assistance from other sources.

C. Withholding consent is not considered arbitrary if the offered assistance is provided following the principles of humanity, impartiality, and integrity, and based on non-discrimination. Therefore, on the other hand, if aid is offered following humanitarian standards and there are no other options, refusal to give consent is considered arbitrary [57].

The affected State's refusal to offer assistance, or its failure to announce its decision regarding this offer within a reasonable period, may be considered arbitrary, and this opinion is reflected in General Assembly resolutions 43/131 [58] and 45/100 [59], which is what the Framework Convention for Assistance adopted The field of civil protection for the year 2000 AD, as among the principles, states parties pledge in the context of assisting in disaster situations, that "the beneficiary countries examine offers or requests for assistance and respond to them as soon as possible [60]."

However, the previous standards remain mere jurisprudential standards, or an agreement of limited scope, and therefore cannot be relied upon to solve the problem of arbitrary refusal of humanitarian assistance, despite the decline in the concept of absolute sovereignty, especially concerning human rights issues. When it comes to providing relief to the victims, international law does not recognize the duty not to arbitrarily withhold consent, which would undermine the victims' rights to receive humanitarian assistance. Accordingly, it can be said that prior approval is the legal tool for the optimal expression of state sovereignty and protection from external interference under the guise of humanitarian action, but at the same time, it may be an arbitrary tool in the hands of this state, which makes it the biggest problem in the course of implementing humanitarian relief work and achieving its goal of saving the lives of victims.

IV. THE THIRD TOPIC: THE PROBLEMS OF THE SHORTCOMINGS OF THE TEXTS RELATED TO THE SCOPE OF APPLICATION OF HUMANITARIAN RELIEF AND THE PROTECTION AFFORDED TO THOSE IN CHARGE OF IT

Humanitarian relief work is based primarily on the principle of humanity, which requires protecting a person as a human being without regard to the circumstance that requires this protection and assistance to him. However, this relief is limited to international or non-international armed conflicts, as it is unable to reach a person in cases where he suffers. A person suffers as his brother suffers in these conflicts, due to the absence of legal regulation of relief work in such cases.

The lack of legal regulation is not limited to the scope of application of humanitarian relief, but also extends to the scope of those involved in it, as the employees of independent humanitarian organizations find themselves facing a huge amount of dangers and threats posed by the nature of their work, which may amount to assaults on them such as kidnapping, wounding and killing without legal protection commensurate with the magnitude of these risks and maintain their independence at the same time.

First: The problem of the inadequacy of texts related to the scope of application of humanitarian relief:

Legal regulation of humanitarian relief work faces difficulties in limiting its application to only international and non-international armed conflicts, leaving out cases where civilians may suffer equally, but not fall under these categories.

1- Internal disturbances and tensions are outside the scope of application of the rules regulating humanitarian relief in international law

This exclusion has resulted in limiting the protection of civilians and their rights to access humanitarian aid in times of internal unrest and conflict. It has also raised questions about the gap in legal protection and the need for additional measures to address the humanitarian consequences of internal conflicts. This exclusion raises questions about the protection of civilians and their right to receive humanitarian aid in such situations. The lack of a clear legal framework can lead to confusion and a potential violation of the rights of affected populations. This highlights the need for further clarification and harmonization of international humanitarian law to ensure that all victims of violence receive adequate protection and assistance, regardless of the nature of the conflict they are in."

The International Criminal Court, through Article 8, paragraphs 2/d and 2/f of the Rome Statute, applies the provisions on war crimes only to armed conflicts that are not international and not to cases of internal disturbances and tensions such as riots or isolated acts of violence.

And according to Article 4, in cases of internal disturbances and tensions, the state has the right to limit human rights in order to maintain public order, but only within the limits and restrictions set by international human rights law. Therefore, internal tensions and disturbances remained among the cases that are not covered by international humanitarian law,

and they are also cases in which it is allowed to suspend human rights agreements better. This prevents humanitarian organizations from providing humanitarian assistance to these people, due to the lack of legal cover that allows them to do so, thus depriving a segment of people who suffer from conditions no less bad than those of victims of armed conflicts or disasters, such as hunger, thirst, displacement, and disease.

2- The absence of an accurate legal description of international armed conflicts and the failure to specify the rules applicable to it

Determining the legal nature of international armed conflicts raises a real problem. There is difficulty in describing and classifying this conflict following the provisions of international humanitarian law, and then determining the legal rules applicable to it, especially the rules for regulating humanitarian action in such conflicts, which have become common today.

This creates a legal gap in the regulation of armed conflicts, where the provisions of international humanitarian law may not be fully applicable, leading to difficulties in determining the legal protection of civilians and other persons affected by the conflict, and the conditions for providing humanitarian assistance.

Many judicial and jurisprudential solutions have been put forward to fill the void in such cases under the title of the mixed approach, which requires a process of separation between the internal elements and the international elements involved in international armed conflicts, this distinction between international and non-international armed conflicts is a complex issue, as it may be difficult to determine which provisions of international humanitarian law should apply to a particular conflict, especially in cases of mixed armed conflicts involving both foreign and internal elements. This highlights the need for a clear and consistent approach to determining the nature of armed conflicts, in order to ensure that the appropriate legal framework for providing humanitarian assistance is applied.

The International Court of Justice in the 1986 case of Military and Paramilitary Activities in and against Nicaragua, applied the approach of differentiating between international and non-international armed conflicts in order to determine the scope of application of international humanitarian law. This approach, which classifies conflicts according to the nature of the parties involved, helps to ensure that the appropriate provisions of international humanitarian law are applied to each type of conflict the confrontations between the Contras and the government of Nicaragua were subject to the laws that regulate non-international armed conflicts, rather than the laws that govern international armed conflicts.

The International Committee of the Red Cross adopted a similar stance, viewing that the law applicable in mixed conflicts is determined by the parties involved. Conflicts between states are governed by the laws of international armed conflicts, while conflicts between other parties are governed by the laws of non-international armed conflicts.

While this approach is significant in addressing the issue of determining the legal rules in international armed conflicts, it does not provide a definitive solution to the existing problem. To address the issue, the judicial ruling was

a temporary solution to a specific conflict, and this judicial precedent cannot be generalized to other cases of international armed conflicts. This requires presenting new legal propositions, to reach an international legal regulation of these conflicts, which contributes to defining the necessary legal guarantees to protect the humanitarian assistance provided to the victims of these conflicts.

Second: The problem of the inadequacy of texts related to the scope of protection for humanitarian relief workers (a complaint about the weakness of international legal protection for employees of independent humanitarian organizations) The nature of the independent, non-governmental humanitarian organizations that carry out the bulk of humanitarian activities in the world prevents these workers from obtaining much international legal protection. Remaining impartial and separate from the warring parties restricts their ability to use protective symbols, and if they refuse to align with the United Nations, they are not protected under the 1994 United Nations Convention on the Safety of United Nations and Associated Personnel. As international humanitarian law grants protection to users of protective emblems, which are a symbol of this protection, but the use of these emblems is restricted to the approval of the concerned countries that are parties to the Convention, which opens the door for these countries to interfere in the activities of humanitarian workers, which is not accepted by humanitarian organizations that seek to maintain their independence. The United Nations' primary agreement for safeguarding humanitarian workers, issued in 1994, only covers United Nations staff and personnel associated with the organization who are deployed under an agreement with the Secretary-General, a specialized agency, or the International Atomic Energy Agency. These individuals must be involved in supporting a mission assigned to a United Nations operation and operating under the United Nations' supervision. As a result, employees of autonomous humanitarian organizations that refuse to be associated with the United Nations for the sake of maintaining their impartiality are not covered by this agreement. This is reflected in the stance of the International Committee of the Red Cross during negotiations for the agreement, as the ICRC expressed its reluctance to receive the protection offered by the Convention, citing the potential link between the ICRC and the United Nations as a significant issue." Linking with the United Nations, which is inherently political, could compromise the neutrality of humanitarian organizations and thus limit their effectiveness, particularly in situations where the United Nations has a significant political or military role. Accordingly, it can be said that one of the most important reasons for the limited protection of the personnel of humanitarian organizations, compared to the large volume of attacks they are exposed to, is the lack of legal texts or their inadequacy in ensuring their protection, in line with their work during their presence and movement in conflict areas. This constitutes a fundamental obstacle to carrying out relief work in a manner that achieves the purpose of these works.

V. CONCLUSION AND RECOMMENDATIONS

This article sought to reveal and analyze the most important problems of the legal regulation of humanitarian relief work in armed conflicts, and it became clear through this analysis that this regulation, despite its importance, has some gaps that prevent it from achieving its goal of organizing humanitarian relief and ensuring its proper access to those in need.

Humanitarian principles, despite their widespread, are questionable today by a large group of recipients of humanitarian assistance, because of the still prevailing view of them as Western principles and values imported to other nations, which makes humanitarian relief work subject to rejection, and some principles are still subject to contradictory interpretations, especially The principle of neutrality, which would impede the delivery of humanitarian relief to those who deserve it.

The ambiguity or contradiction of the legal texts related to the condition of prior consent raises the problem of determining the competent authority to grant it in non-international armed conflicts. This ambiguity or legal contradiction may be used by humanitarian organizations to justify their non-interference on the pretext that they only deal with sovereign states, which negatively affects the right of victims. In obtaining humanitarian assistance, it contributes to the exacerbation of humanitarian crises, and the ambiguity or contradiction of legal texts related to the condition of prior approval also raises the problem of the state's arbitrary refusal of humanitarian relief work, which states may exploit this ambiguity to refuse to grant its approval for the entry of humanitarian aid to areas outside its control or under its control. The revolutionaries, which results in the loss of the right of the victims to obtain humanitarian relief.

Presently, there are instances where humanitarian aid cannot reach individuals experiencing humanitarian crises, due to the insufficient legal regulation of humanitarian aid in international and non-international armed conflicts. The current regulations explicitly exclude internal disturbances and tensions from their scope and have not kept up with the changing nature of armed conflicts, leading to the neglect of civilian suffering in both situations. In the case of internal disturbances, they are not considered to be at the level of armed conflicts, and in the case of international armed conflicts, the legal status has not been updated to accommodate this phenomenon.

The staff of independent humanitarian organizations, due to the weakness of the legal protection afforded to them, remains between the hammer of threats and aggression, and the anvils of subordination and compliance. As this protection will not exceed the protection granted to civilians - although the nature of their work may impose a higher level of danger on them. Thus, it is less than the protection granted to humanitarian actors that use the protective emblem, or that are subject to the supervision of or associated with the United Nations. This constitutes a fundamental obstacle for them to carry out humanitarian relief work. In the face of these problems, the researcher believes that the legal regulation of humanitarian relief work, despite its importance and legacy, in order to achieve the desired goal of preserving the lives of those affected in armed conflicts, needs to be re-read,

whether at the level of acceptability of principles, or the level of setting conditions or at the level of expanding the scope.

For this purpose, the researcher believes that it is necessary to discuss the following points:

1- Reformulating and interpreting the principles of humanitarian relief to become universal in the strict sense of the word.

2- Removing the contradiction between the text of the common Article 3 of the Geneva Conventions of 1949, and the text of Article 18 of the Second Additional Protocol of 1977, regarding the authority that should approve the areas that are under the control of the rebels.

3- Inclusion of a binding legal text imposing a general duty not to arbitrarily refuse humanitarian assistance.

4- Eliminate the traditional distinction between international and non-international armed conflicts.

5- Inclusion of internal disturbances and tensions in the general concept of non-international armed conflicts.

6- Granting the employees of the independent humanitarian organizations' legal protection appropriate to their status and preserving their independence.

7- Requiring states to prosecute perpetrators of attacks against employees of independent humanitarian organizations and to pay compensation as appropriate.

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- 2255 (A D-21), dated December 16, 1966 AD, which entered into force on March 23, 1976 AD., Article (12), the International Covenant on Economic, Social and Cultural Rights, which Ratified by the United Nations General Assembly by Resolution No. 2255 (A-21), of December 16, 1966, which entered into force on March 23, 1976., Articles ((1 and (8), European Convention for the Protection of Human Rights and Fundamental Freedoms, Held on 11/4/1950, entered into force on 9/3/1953, Article 4, American Convention on Human Rights Done in San Jose, on 11/22/1969, entered into force on 7/18/1978.
5. The right to health is an essential component of the right to life, and this right is stipulated in many covenants of international human rights law. See Paragraph (1), Article (25), Universal Declaration of Human Rights of 1947 AD, previous reference., Paragraph (1), Article (2), International Covenant on Economic, Social and Cultural Rights, previous reference. Paragraph (43), (a) (d) (e) of General Comment No. (14) on the enjoyment of the highest standard of health, issued by the Committee on Economic, Social and Cultural Rights, twenty-second session of the year 2000, available on the website: <http://hrlibrary.umn.edu/arabic/cescr-gc14.html>
 6. International human rights law grants everyone the right to an adequate standard of living for himself and his family, including adequate food. See Article (25) of the Universal Declaration of Human Rights of 1948, previous reference., Article (11), International Covenant on Economic, Social and Cultural Rights, previous reference., Paragraph (15) of General Comment No. (12) related to the right to adequate food, issued by the Committee on Economic, Social and Cultural Rights, twentieth session 1999, available on the website: <http://hrlibrary.umn.edu/arabic/cescr-gc12.html>
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 8. It must be noted that the rules of international humanitarian law applicable to the protection of humanitarian assistance in armed conflict differ according to the nature of the conflict in question, the nature of the parties to the conflict, and the question of who has control over the land. In the case of international armed conflicts (including the case of military occupation), The provision of humanitarian assistance is regulated by the Fourth Geneva Convention of 1949 and the First Additional Protocol attached to it of 1977. In the case of non-international armed conflicts, humanitarian assistance is regulated by Article (3) common to the four Geneva Conventions of 1949, and the Second Additional Protocol annexed to it of 1977. International law customary. For more, see Rebecca Barrier, previous reference, p. (102-107).
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 11. See these principles in the International Review of the Red Cross, Vol. 97, No. (897/898), 2016, p. 18. <https://www.icrc.org/ar/publication/fundamental-principles-of-the-red-cross-and-red-crescent>
 12. Claudia McGoldrick, The Future of Humanitarian Work from the Perspective of the International Committee of the Red Cross, International Council of the Red Cross, Selections from the International Review of the Red Cross, Volume 93, Issue 884, December 2011, p. 3. [\[CrossRef\]](#)
 13. Vincent Bernard, The Spirit of Human Principles in its Practical Image, International Journal of the Red Cross, Volume 97, Issue (897/898), 2016, pp. (7-18), p.8.
 14. The statutes of the International Red Cross Movement clarified the principle of humanity: "The International Red Cross and Red Crescent Movement, which emerged from the desire to provide relief to Al-Jarji on the battlefield without discrimination, seeks as a movement of international and national character, to avoid and alleviate human suffering." Wherever you find...". The Statutes and Bylaws of the International Movement of the Red Cross and Red Crescent, adopted by the Twenty-fifth International Conference of the Red Cross and Red Crescent in Geneva in October 1986, amended by the Twenty-sixth International Conference in December 1995, and the Twenty-Ninth Conference of the Red Cross and Red Crescent held in Geneva in June 2006. Available On the website: <https://www.icrc.org/statutes-international-committee-red-cross>. it is stated in Article (3) common to the Geneva Conventions of 1949 AD, which indicates that: "People who do not participate directly in hostilities, including members of the armed forces who have laid down their arms, and persons unable to fight due to illness, wound, detention, or any other Another reason is that they are treated humanely in all circumstances...".
 15. The Statute of the International Movement of the Red Cross clarified the principle of impartiality: "The movement does not practice any discrimination based on nationality, race, religious beliefs, social status or political opinions, and it seeks to alleviate the suffering of individuals according to their needs only and to give priority for the most urgent cases of distress." Statutes and bylaws of the International Movement of the Cross and Red Crescent, previous reference. It is stipulated in many texts of international humanitarian law. See Article (9) of the First Geneva Convention of 1949. And Article (59) of the Fourth Geneva Convention.
 16. The statutes of the International Movement of the Red Cross clarified the principle of neutrality: "For the company to maintain the confidence of all, it shall refrain from supporting any of the parties to hostilities or participating, at any time, in controversies of a political, racial, religious or ideological nature.". Statutes and bylaws of the International Movement of the Cross and Red Crescent, previous reference.
 17. The Statutes of the International Movement of the Red Cross clarified the principle of independence: "The movement is independent, and although National Societies act as auxiliary bodies in the humanitarian services provided by their governments and are subject to the laws of their countries, they must maintain their autonomy so that they can act." at all times following the Principles of the Movement." Statutes and bylaws of the International Movement of the Cross and Red Crescent, previous reference.
 18. Borono Baumeys, The Use of Force to Protect Civilians and Humanitarian Action: The Case of Libya and Beyond, International Committee of the Red Cross, Vol. 93, No. 884, September 2011, p. 14. [\[CrossRef\]](#)
 19. The Norwegian Refugee Council, Challenges Facing Principled Humanitarian Work, Perspectives from Four Countries, July 2016, p. 7.
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 21. Lucy V. Salik, Fragrances of Faith in a Secular World, Human Principles from an Islamic Perspective, International Review of the Red Cross, 2016 AD, Volume 97, Issue (897/898), pp. (345-370), p. 364. [\[CrossRef\]](#)
 22. Vincent Bernard, previous reference, p.11.
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 25. The Norwegian Refugee Council, previous reference, p. 9.
 26. Vincent Bernard, previous reference, p. 12.
 27. Ibid., p. 13
 28. Barbara Brubacher, Ethical and Practical Challenges to the Neutrality of Non-Governmental Organizations, Bulletin of the Center for Research and Training of International Non-Governmental Organizations, No. 28, October 2004, p. 3.
 29. Kellenberger Jacob, Do we speak openly, or are we silent during humanitarian action? Selections from the International Review of the Red Cross, Issue 855, 2004, p. 9.
 30. See: Statutes of the International Movement of the Red Cross and Crescent, previous reference.

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31. Broman Rooney, Doctors Without Borders and the International Committee of the Red Cross, A Matter of Principle, Selections from the International Review of the Red Cross, Vol. 94, No. 888, 2012, p.6. Including the committee's condemnation of violations of international humanitarian law in Bosnia and Herzegovina in 1992, criticism of the Myanmar authorities in 2007 for not giving it the appropriate climate to perform its work, condemnation of the massacres in Côte d'Ivoire in 2011 for more see: Qassa Abd al-Rahman, Humanitarian Action between Text and Practice, dissertation Ph.D., Faculty of Law and Political Science, Mouloud Mamari University, Tizi Ouzou, Algeria, 2018, pp. (71-73).
32. Barbara Brubacher, previous reference, p. 3.
33. Broman Rooney, previous reference, p. 3.
34. Barbara Brubacher, previous reference, p. 3.
35. Al-Akhdar Mubadou'a, previous reference, pg. 267.
36. Claudia McGoldrick, previous reference, p. 9.
37. The Norwegian Refugee Council, previous reference, p. 54.
38. Vincent Bernard, previous reference, p. 13
39. Peter Maurer, Humanitarian Policy and Principle-Based Humanitarian Action, International Review, (2016 AD), previous reference, p. 445 to p. 452, p. 445. [\[CrossRef\]](#)
40. Mukhadama Muhammad, The Right to Humanitarian Assistance, Yarmouk Research Journal, Human and Social Sciences Series, Volume 13, Issue (2-a), Yarmouk University Publications, 1997, p. 218.
41. Wael Ahmed Allam, previous reference, p. 377.
42. This condition is expressly stated in Article (9) common to the first three agreements and Article (10) of the Fourth Convention on the same common formula, which restricts the activities that can be carried out by the International Committee of the Red Cross or any impartial humanitarian body to protect and provide relief to the wounded patients, medical and religious personnel, subject to the consent of the parties concerned. See: Article (9), the First, Second, and Third Geneva Conventions of 1949 AD., Article (10), Fourth Geneva Convention of 1949
43. Qasimi, Youssef, previous reference, p. 156.
44. See Article (23), Fourth Geneva Convention in 1949. As well as Articles: (70) and (71), Additional Protocol I in 1977.
45. Article (59) of the Fourth Geneva Convention stipulates that: "If all or part of the population of the occupied territory lacks sufficient provisions, the Occupying Power must allow relief operations ... and provide them with facilities as far as their means allow."
46. Qasimi Youssef, Humanitarian Aid between the Necessities of Urgency and the Requirements of Development, Ph.D. thesis, Faculty of Law and Political Science, Mouloud Mamari-Tiriozu University, 2018, p. 157.
47. Article (3) is common to the four Geneva Conventions of 1949.
48. Al-Akhdar Mubdoua, Humanitarian Action in Armed Conflict, Ph.D. thesis, Faculty of Law, University of Algiers, Algeria, 2016, p. 294.
49. Article (18), the First Additional Protocol of 1977.
50. Qassa Abd al-Rahman, previous reference, p. 53.
51. Al-Akhdar Mubda'a, previous reference, pg. 270.
52. There are two exceptions to this principle: the first: is the duty of the Occupying Power to approve humanitarian relief work. It can be deduced from the text of Article (59) of the Fourth Geneva Convention, which states: "If all or part of the population of occupied territory lacks sufficient supplies, The Occupying Power must allow relief operations... and provide them with facilities as far as their means allow." Second: States' obligation to accept humanitarian relief, if the refusal of relief work may lead to starvation of the civilian population, and threaten their survival. It can be deduced from Article (18) of the Second Additional Protocol - after linking it with Article (14) of the same protocol that prohibits the use of starvation as a method of fighting - which includes, as a minimum, an obligation on the part of states to accept humanitarian relief if the situation is in a way that may lead to refusal Relief actions starve a civilian population or threaten its survival. See Article (14) and Article (18) of the Second Additional Protocol of 1977. For a more in-depth reading of these exceptions, see: Rebecca Barber, previous reference, pp. (105-107)
53. Qassa Abd al-Rahman, previous reference, p.62
54. See: Shakara Nadia Diaa, The Crisis of State Sovereignty towards the Policy of International Humanitarian Intervention, Journal of Legal and Political Sciences, Al-Aliya Association for Research and Strategic Studies, Iraq, Volume 1, Number 2, 2011 AD, p. 318.
55. See Articles: (54) of the First Additional Protocol of 1977, (14) of the Second Additional Protocol of 1977, (8/2-b) of the Statute of the International Criminal Court, ratified in Rome (Italy) on 17/ 7/1998 AD, entered into force on 1/7/2002, Document No.: 10/183 CONF/A.
56. International Law Commission, Protection of Persons in Disaster Situations, Sixty-third Session, Geneva / from July 7 to August 8, 2008, United Nations Document No.: 590/CN.4/A, p. 164.
57. Ibid.
58. See: Paragraphs (9) and (10) of the preamble to Regulation No. 43/131, issued by the General Assembly, on December 8, 1988, relating to the provision of humanitarian assistance to victims of natural disasters and similar emergencies, United Nations Document No. 131/43/RES/A.
59. Concerned about the difficulties and obstacles that victims of natural disasters and similar emergencies may encounter in receiving humanitarian assistance, Convinced that in the provision of humanitarian assistance, in particular the transportation of food, medicines, and medical aid, the delivery of which is imperative to the victims, The speed with which it was implemented avoided a catastrophic increase in the number of victims." Paragraphs (8) and (9) of the preamble to Regulation No.: 45/100, issued by the General Assembly, on December 14, 1990, related to the provision of humanitarian assistance to victims of natural disasters and similar emergencies, United Nations Document No.: 100/45/ RES/A.
60. Paragraph (e), Article (3), the framework agreement for assistance in the field of civil protection, concluded in 2000, available on the website: <https://qistas.com/legislations/jor/view/OTK3OTM>

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