

**The Role of International Humanitarian Law in Ensuring International Peace on
the Example of the 1949 Geneva and 1954 Hague Conventions**

Abstract. The paper analyzes the basic principles of international humanitarian law, main international conventions that were adopted within the mentioned framework of the international law. In particular, the article focuses on the Geneva Convention of 1949, which provides for the protection of civilian population and civilian infrastructure during hostilities, and the Hague Convention of 1954, which provides for the protection of cultural heritage and historical monuments during military actions.

The research also discusses the legal foundations of the Russian-Georgian war, using the example of violation of the principles of international humanitarian law during the Russian military aggression against Georgia in 2008.

Key words: Geneva Convention, Hague Convention, civilian infrastructure, military objects/infrastructure, military personnel, civilians.

Introduction. In terms of definition, International Humanitarian Law is a set of international legal norms and principles, which regulates the rules of conduct during hostilities (both within the country and at the interstate level), determines the norms of protection of war victims. International humanitarian law is codified within the Hague and Geneva Conventions for the Protection of Victims of War. The humanitarian rules and certain limitations of the conduct during war were first established in 1864 by the initiative of the Red Cross, and they took their legal form later, when multilateral international agreements on the rules of the conduct during wars were made.¹

International Humanitarian Law - also called the Law of War - defines the rules in detail aimed at reducing the consequences of armed conflict. In particular, it protects those who do not/no longer take part in hostilities and determines the means and methods of warfare.² The rules and principles of humanitarian law aim to reduce the damage caused by armed conflicts. The two fundamental principles of humanitarian law imply the following: 1. protection of civilians who do not/no longer participate in hostilities and 2. taking responsibility by the parties involved in armed

1 ICRC, 2004. What is International Humanitarian Law? Retrieved from: https://www.icrc.org/en/doc/assets/files/other/what_is_ihl.pdf

2 საერთაშორისო ჰუმანიტარული სამართლის საკონსულტაციო სამსახური. (2002 წლის ივნისი). საერთაშორისო ჰუმანიტარული სამართლის იმპლემენტაცია.

conflict - the protection of civilians and civilian infrastructure shall be ensured as much as possible, ban on using certain types of weapons stipulated by international conventions during hostilities and protection of the rights of prisoners of war.³

International humanitarian law is a part of international public law. International public law, on the other hand, represents a wide range of treaties, customary law, principles and norms. Traditionally, this legal framework only regulated relations between states, although it has subsequently encompassed a wide range of actors, in this respect IHL (International Humanitarian Law) is important in that it recognizes obligations for both state and non-state armed groups that are parties to the conflict. IHL regulates the situation during an armed conflict and under conditions of occupation. It is, so to speak, a balance between military necessity and humanitarian considerations in conflicts. The IHL classifies armed conflicts according to whether they are international or non-international.⁴

Treaties and customary international law are the two main sources of international humanitarian law and regulations. Important IHL treaties include the Hague Regulations of 1907, the four Geneva Conventions of 1949 (also the 1977 Additional Protocols for the Protection of Victims of Armed Conflict), and the 1954 Hague Convention for the Protection of Cultural Heritage During Armed Conflicts (and two Additional Protocols), 1972 Convention on Biological Weapons, 1980 Treaty on Conventional Weapons (and its five protocols), 1993 Convention on Chemical Weapons, 1997 Ottawa Convention on Landmines, 2000 Protocol on the Involvement of Children in Armed Conflict.⁵

Among other main acts of IHL, following ones should be mentioned: a) Paris Declaration of 1856 on Naval Warfare; b) Hague Conventions of 1907 on Land and Sea warfare; c) Geneva Protocol of 1925 on the Prohibition of the Use of Corrosive, Poisonous and Other Gases and Bacteriological Means in War; d) 1949 Geneva Convention for the Improvement of Conditions of the Wounded and Sick during Active Armed Actions; e) 1949 Geneva Convention on the Protection of the Civilian Population in Time of War.⁶

Topicality - the relevance of the topic is the fact that international humanitarian law - also called as the law of war - is one of the most important directions of international law, which defines in detail the rules aimed at reducing the consequences of armed conflict. In particular, it protects those who do not or no longer take part in hostilities and determines the means and methods of waging war. However, joining these agreements is only the first step. Implementation of humani-

³ International Justice Resource Center, 2021. INTERNATIONAL HUMANITARIAN LAW. Retrieved from [ijrcenter.org: https://ijrcenter.org/international-humanitarian-law/](https://ijrcenter.org/international-humanitarian-law/)

⁴ იგივე წყარო

⁵ (ADVISORY SERVICE ON INTERNATIONAL HUMANITARIAN LAW , 2004)

⁶ თანამედროვე საერთაშორისო სამართალი. 2004. თანამედროვე საერთაშორისო სამართალი. ლექსიკონო-ცნობარი. გამომცემლობა „ჯისიაი“. თბილისი, საქართველო

tarian law is of a first priority - turning rules into action.

Based on the fact that in the period after the restoration of independence, as a result of indirect and direct aggression of Russia against Georgia and violations of international humanitarian law, our country endured several severe wars, which resulted in greatest casualties among the civilian population, one of the most severe consequences of which is up to 300 thousand internally displaced persons on the territory of our country, Also, based on the fact that the country is still at war with Russia and the issues of international humanitarian law have not been thoroughly studied, it is necessary to carry out appropriate research regarding the International Humanitarian Law, especially the Geneva and Hague Conventions.

Research question. The main research questions are:

1. What are the main acts of international humanitarian law?
2. To what extent do the customs and laws of war within the framework of International Humanitarian Law, such as the Geneva and Hague Conventions, contribute to limiting the possibility of starting a war?
3. How do the Geneva and Hague Conventions establish mandatory rules of conduct in the event of an armed conflict, both for military formations and for individual soldiers?
4. To what extent do the existing norms within the framework of international humanitarian law prohibit the use of certain types of weapons, protect civilians, prisoners of war, etc. Do they ease the condition of civilians and protect material values during armed conflict?

Theoretical framework. In the conditions when a number of states do not have the desire to promote the development of international humanitarian law, and especially its implementation mechanisms, the question arises as to how far the adjacent fields of law have developed and what kind of impact they can have on international humanitarian law. In this context, international human rights law should be given special attention, since human rights are an integral part of international law. While international humanitarian law and human rights law differ, both in their origins and in the situations in which they are applied, the two branches of law share the common goal of protecting individuals in all circumstances. In the relationship between international humanitarian law and human rights law, classical public international law recognized the separation of legal norms in times of peace and times of war. Depending on international relations, either the *corpus juris* of the law of peace or the law of war was applied.

At the same time, after the adoption of the Charter of the United Nations in 1945 and the adoption of the main documents in the field of human rights, this type of unequivocal division has changed. Since then, there are norms that apply both in times of peace and in times of war.

Accordingly, the work will be based on the basic principles of human rights and the law of

war, as well as the concept of liberalism within international relations - which recognizes the importance of international law and international conventions in international relations. In addition, in the legal assessment of Russia's aggression against Georgia in 2008, the paper will also use the principles of the political realism, which deny and denigrate the role of international law and international conventions in the relations between states and give the primary importance to power.

Research methodology and methods. The research paper fully relies on the qualitative research method, in particular, the basic principles of the Geneva and Hague Conventions will be thoroughly studied and analyzed. As for one of the directions of the qualitative research method, the case analysis will be used within the framework of the legal assessment of the Russian-Georgian war.

In the process of working on the paper, primary sources will be used, specifically, the international conventions that were adopted in different years of recent history will be presented.

Geneva Conventions. First of all, it should be noted that the Geneva Conventions and their additional protocols are international agreements that contain the most important rules limiting the cruelty of war and barbarism. These rules protect people who do not participate in combat operations (civilian population, medics, representatives of mass media) and those who can no longer participate in combat operations (wounded, sick soldiers, prisoners of war).

It can be said that the Geneva Conventions are one of the most important achievements of humanity of the last century. Conventions and their additional protocols are the basis of international humanitarian law, that is, that part of international law that regulates the conduct of armed conflict and limits the severe impact of its consequences.⁷ The conventions are related to improving the conditions of wounded and sick combatants involved in military operations on land and in sea, humane treatment of prisoners of war and protection of the civilian population. Humanitarian law is based on the following principles: 1. People who are not involved in any combat action and are in the area of hostilities should be protected as much as possible from various types of violence; 2. Humane treatment should be shown to captured fighters, torture or other types of violence against them are not allowed; 3. When considering the case of prisoners of war in court, the court must use the usual procedural norms; 4. It is not allowed to cause excessive damage to the opponent with various prohibited military means during combat operations; 5. Civilian population and civilian buildings should not be the object of military attack. In order to guarantee the rights contained in the Geneva Conventions, their signatory states are obliged to ensure that these basic principles are taught to all members of their armed forces. A person who fails to fulfill his duties will be prosecuted under criminal law and may be extradited to another state. It should be noted that the tribunals,

⁷ (INTERNATIONAL COMMITTEE OF THE RED CROSS, 2014)

which were established to consider the cases of military personnel participating in the ongoing hostilities in Rwanda and the former Yugoslavia, use many articles of the Geneva Conventions⁸.

According to the first Geneva Convention, which was adopted in 1864, the protection of wounded and sick fighters, as well as prisoners of war and civilians is provided for⁹.

According to **the Second Geneva Convention (1906)**, protection of wounded and sick combatants (sailors) in the military-naval fleet, as well as combatants under the destruction of a military ship, is provided for. Wounded and captured seamen shall enjoy the same rights as combatants of the various types of land forces do; This convention also protects those ships that have the function of a military hospital¹⁰.

According to the **Third Geneva Convention (1929)**, states must undertake to protect the rights of prisoners of war, namely: they must be treated humanely, they must be provided with adequate food, housing, clothing and medical assistance. It is forbidden to torture them or conduct medical experiments on them. They should be protected from violence and abuse. Similar rights apply to captured journalists or civilians who accompanied the military¹¹.

The Fourth Geneva Convention (1949) protects the rights of civilians. The parties involved in the military conflict accept the responsibility of constantly distinguishing military personnel from civilians and attacking only military objects¹².

Finally, all four conventions were revised and appropriate amendments and additions were made in 1949¹³.

It is necessary to note that the armed conflict should be properly categorized in order to determine which rules should be applied by the parties involved in the conflict, in particular, which should be applied in the conditions of international armed conflict and which should be applied during non-international conflicts. In both cases, quite significant problems arise. For example, the definition of international armed conflict (hereinafter IAC) is given in Article 2 of the Fourth Geneva Convention, where it is noted that the rules of IAC apply to “declared war or any other armed conflict that may arise between two or more subjects of international law - between the parties to the conflict. . .”¹⁴ Thus, an IAC can only arise between two or more states. Article 3 of the

8 სმიტი, რ. (2005). ადამიანის საერთაშორისო უფლებები. (გ. ჯოხაძე, რედ.) თბილისი: «სეზანი».

9 თანამედროვე საერთაშორისო სამართალი. 2004. თანამედროვე საერთაშორისო სამართალი. ლექსიკონო-ცნობარი. გამომცემლობა „ჯისიაი“. თბილისი, საქართველო

10 თანამედროვე საერთაშორისო სამართალი. 2004. თანამედროვე საერთაშორისო სამართალი. ლექსიკონო-ცნობარი. გამომცემლობა „ჯისიაი“. თბილისი, საქართველო

11 International Humanitarian Law. Convention relative to the Treatment of Prisoners of War. Geneva, 27 July 1929. Retrieved from: <https://www.legal-tools.org/doc/1d2cfc/pdf/>

12 The Geneva Conventions 1949. Retrieved from: <https://www.icrc.org/en/doc/assets/files/publications/icrc-002-0173.pdf>

13 გოლობი, რ., ჰუდლესტონი, ტ., კრაფი, პ., როუჯი, დ., & ტაელმანი, უ. (2009). ცხოვრება დემოკრატიულ საზოგადოებაში (ხმა მესამე). (ნ. ნაცვლიშვილი, რედ., & მ. ჩანქსელიანი, თარჯ.) თბილისი: Council of Europe.

14 The Geneva Conventions 1949. Retrieved from: <https://www.icrc.org/en/doc/assets/files/publications/icrc-002-0173.pdf>

Fourth Geneva Convention mentions a non-international armed conflict (hereinafter referred to as an armed conflict), “an armed conflict is of a non-international nature if a non-state armed group is a participant in the armed conflict”, therefore the conflict will be categorized as an armed conflict; The mentioned case can take place when, for example, the central government of the state is fighting against a specific armed group, for example, with separatist groups, or with other types of illegal armed groups, or the fight is going on between two or more non-state armed groups¹⁵.

We can consider the following as the main and fundamental aspects: Civilians must maintain normal living conditions. They must be protected from deprivation of life, torture, robbery, repression and captivity. Civilians’ dignity, family rights and religious beliefs must be respected. The parties involved in the conflict must ensure the safe supply of food and medical aid to civilians, hospitals and safe zones for the wounded, the sick, the elderly, children, pregnant women and mothers of infants. This convention provides special protection for women and children. Hospital employees who care for civilians must be protected¹⁶.

According to the Geneva Conventions, humanitarian aid is carried out by the International Committee of the Red Cross (ICRC), national associations of the Red Cross and Red Crescent, or other independent humanitarian organizations authorized by the parties to the conflict. International humanitarian law and human rights law complement each other. Both protect people from physical harm and violation of dignity, but they operate in different circumstances and are based on different documents. International humanitarian law is related to military actions and protects those who are directly affected by hostilities. Human rights law applies in both wartime and peacetime situations.

International humanitarian law prohibits the involvement of children in hostilities. Despite such prohibition, minors participate in combat operations in many regions of the world. According to the norms of international humanitarian law, the recruitment of children under the age of 15 is not allowed and all measures must be taken to prevent the involvement of minors in hostilities¹⁷. In general, the same rights apply to women as to men, which are provided for by the Geneva Conventions, namely Article 12 of the First and Second Geneva Conventions¹⁸ and Article 14 of the Third Geneva Convention¹⁹. In other words, additional guarantees of protection are created for women, such as: dignity, pregnancy and childbirth. For example, female prisoners, or detainees, should be

15 International Justice Resource Center, 2021. INTERNATIONAL HUMANITARIAN LAW. Retrieved from ijrcenter.org/ <https://ijrcenter.org/international-humanitarian-law/>

16 გოლობი, რ., ჰუდლესტონი, ტ., კრაფი, პ., როუვი, დ., & ტაელმანი, უ. (2009). ცხოვრება დემოკრატიულ საზოგადოებაში (ხმა მესამე). (ნ. ნაცვლიშვილი, რედ., & მ. ჩანქელიანი, თარჯ.) თბილისი: Council of Europe.

17 თანამედროვე საერთაშორისო სამართალი. 2004. თანამედროვე საერთაშორისო სამართალი. ლექსიკონო-ცნობარი. გამომცემლობა „ჯისიაი“. თბილისი, საქართველო

18 GENEVA CONVENTION FOR THE AMELIORATION OF THE CONDITION OF THE WOUNDED AND SICK IN ARMED FORCES IN THE FIELD OF 12 AUGUST 1949. Retrieved from: https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.30_GC-I-EN.pdf

19 თანამედროვე საერთაშორისო სამართალი. 2004. თანამედროვე საერთაშორისო სამართალი. ლექსიკონო-ცნობარი. გამომცემლობა „ჯისიაი“. თბილისი, საქართველო

housed separately from men under the supervision of women.

In particular, according to Article 27 of the Fourth Geneva Convention, as well as Articles 75-76 of Protocol I, women must be protected from “rape, prostitution and all other forms of abuse”²⁰.

International humanitarian law prohibits the use of military force against civilians and specifically protects the rights of children. Special conditions apply to children who are left without family care, have psychological problems, or are unable to communicate with family members. Attention should be paid to children under the age of 15 who are orphaned or separated from their families; They should be able to observe their religious practices and receive an education.

As mentioned above, international humanitarian law applies to the protection of victims of war, including prisoners of war, wounded, civilian population, dead during hostilities. According to the Geneva Convention, in order to ensure respect and protection of the civilian population and civilian objects of the party to the conflict, entities involved in hostilities must always distinguish between the civilian population and combatants, civilian and military objects and, accordingly, conduct their actions only against military objects.

It should be also noted that combatants are persons who join the military forces of belligerent states and take direct part in military operations, civilian objects - all objects that are not military and have either residential or administrative, etc. Military object - all those objects, for example, a military base, a warehouse of ammunition and all those buildings and structures that greatly contribute to military operations²¹.

It should be emphasized that according to international humanitarian law, armed conflicts are not prohibited, and the IHL attempts to protect the interests of the civilian population in such conflicts. Accordingly, international humanitarian law recognizes that any military action is accompanied by mutual loss, which sometimes, unfortunately, involves casualties among civilians²².

It is an interesting fact that the International Committee of the Red Cross was, from the beginning, one of the main initiators of the Geneva Conventions, which considered the protection of military personnel. Each of these fundamental international agreements is based on the principles of respect for human personality and dignity.

1954 Hague Convention. The Hague Convention - “On the Protection of Cultural Property in

20 IV GENEVA CONVENTION RELATIVE TO THE PROTECTION OF CIVILIAN PERSONS IN TIME OF WAR OF 12 AUGUST 1949 Retrieved from: https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33_GC-IV-EN.pdf

21 თანამედროვე საერთაშორისო სამართალი. 2004. თანამედროვე საერთაშორისო სამართალი. ლექსიკონი-ცნობარი. გამომცემლობა „ჯისიაი“. თბილისი, საქართველო

22 გოლოზი, რ., ჰუდლესტონი, ტ., კრაფი, პ., როუვი, დ., & ტაელმანი, უ. (2009). ცხოვრება დემოკრატიულ საზოგადოებაში (ხმა მესამე). (ნ. ნაცვლიშვილი, რედ., & მ. ჩანქსელიანი, თარჯ.) თბილისი: Council of Europe.

the Event of Armed Conflicts”, against the backdrop of large-scale destruction of cultural heritages during the Second World War - was adopted in 1954. The Hague Convention is the first multilateral treaty focused on the protection of cultural heritage during hostilities²³. As stated in the preface of the Convention, “To damage the cultural heritage of any nation is to commit the same crime against humanity, since each nation has its own contribution to the culture of the world.” The Hague Convention particularly emphasizes UNESCO’s fundamental belief that the culture of each nation is precious to all humanity²⁴. The Convention covers immovable and movable cultural heritage, including architectural, artistic or historical monuments, archaeological sites, works of art, manuscripts, books and other objects of artistic, historical or archaeological form, as well as all kinds of scientific collections, regardless of their origin and ownership²⁵. Several conflicts that occurred in the 1990s (especially the events in the territory of the former Yugoslavia) highlighted certain problems in the proper implementation of the Hague Convention. As a result, the 1999 diplomatic conference in Hague can be considered an important achievement, where the second protocol of the convention was developed, which is related to the legal, military and technical aspects of cultural heritage protection. In particular, the second protocol introduced a new and strengthened system for the protection of these values - “Greatest Importance for Humanity”, which implies the strengthening

23 UNESCO, 2021. 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. Retrieved from <http://www.unesco.org/new/en/culture/themes/armed-conflict-and-heritage/convention-and-protocols/1954-hague-convention/>

24 იგივე წყარო

25 ADVISORY SERVICE ON INTERNATIONAL HUMANITARIAN LAW . (2004, July). What is International Humanitarian Law? Retrieved from ICRC: https://www.icrc.org/en/doc/assets/files/other/what_is_ihl.pdf Hausler, K., Bongard, P., & Lostal, M. (2019, May 29). 20 Years of the Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in Armed Conflict: Have All the Gaps Been Filled? Retrieved from printfriendly.com: <https://www.printfriendly.com/p/g/sWmFLV>

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UNESCO. (2017). 1954 წლის ჰააგის კონვენცია შეიარაღებული კონფლიქტის შემთხვევაში კულტურულ ფასეულობათა დაცვის შესახებ და მისი ორი (1954 და 1999) ოქმი. (მ. გომამე, ნ. გურასაჟული, რედ., & მ. ნიშნიანიძე, თარჯ.) მოპოვებული Blue Shield Georgia.-დან

გოლობი, რ., ჰუდლესტონი, ტ., კრაფი, პ., როუვი, დ., & ტაელმანი, უ. (2009). ცხოვრება დემოკრატიულ საზოგადოებაში (ხმა მესამე). (ნ. ნაცვლიშვილი, რედ., & მ. ჩანქსელიანი, თარჯ.) თბილისი: Council of Europe.

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კობახიძე, ო. (2009 წლის 23 იანვარი). Human Rights Watch-ის მოხსენება აგვისტოს ომის შესახებ. მოპოვებული [Civil.ge](http://civil.ge): <https://civil.ge/ka/archives/145634>-დან

საერთაშორისო ჰუმანიტარული სამართლის საკონსულტაციო სამსახური. (2002 წლის ივნისი). საერთაშორისო ჰუმანიტარული

სამართლის იმპლემენტაცია. მოპოვებული tsu.ge: https://tsu.ge/data/file_db/faculty_law/Implementation.pdf-დან

სმიტი, რ. (2005). ადამიანის საერთაშორისო უფლებები. (გ. ჯოხაძე, რედ.) თბილისი: «სეზანი».

ჰუმანიტარული სამართალი. (თ. გ.). მოპოვებული განმარტებითი იურიდიული ლექსიკონი: <http://gil.mylaw.ge/ka/term/56084.html#-დან>

of this system by national legislation, which means that cultural heritage should not be used for military purposes²⁶.

The second protocol also provides for the possibility of providing various types of assistance. To date, the main work of the Committee has been to develop two guidelines: 1. Guidelines for the implementation of the Second Protocol (known as the “Guidelines”) and 2. Those relating to the use of the Fund for the Protection of Cultural Property in Armed Conflict (under the Convention, a fund for the protection of cultural values during an armed conflict was created, the appropriate use of which is determined by the Committee for the Protection of Cultural Values in the event of an armed conflict (or simply “the Committee”))²⁷.

It is also an important stage when the world began to realize what kind of damage has been done to cultural values and also that the use of new war technologies in armed conflicts increases the possibility of danger.

The convention contains quite important provisions, and above all, the following is mentioned: “The signatory parties to the agreement confirm that during the recent armed conflicts, cultural values have suffered serious damage, and as a result of the development of military technologies, they are in greater danger of destruction; They are convinced that any loss to the cultural values of any nation is a loss to the cultural heritage of all mankind, since every nation contributes to world culture; Considering that the preservation of cultural heritage is of great importance for all nations of the world and it is important to ensure the international protection of this heritage; They agree on what specific definitions of cultural heritage are.....”²⁸. Also, in the agreement, there are articles on the need to protect cultural heritages, in which cases they are given the status of special protection, etc.

One of the main provisions adopted in the Second Protocol is Article 22, according to which the Protocol fully applies to non-international armed conflicts. The Hague Convention of 1954 provides that in similar situations the parties to the conflict (both state and non-state armed groups) are obliged to respect cultural heritage and values. Although all parties to hostilities are subject to the same rules, various small armed groups are often at a disadvantage because they often lack information about what constitutes cultural property protected under the Hague Convention system. Therefore, when armed groups attack cultural sites, they may not even know which sites qualify as cultural heritage under international law. The Second Additional Protocol of the Hague Conven-

26 UNESCO, 1999. Diplomatic Conference on a Draft Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict 15 - 26 March 1999. Retrieved from: http://www.unesco.org/new/file-admin/MULTIMEDIA/HQ/CLT/pdf/hague_1999_diploconf_precis_en_20120523.pdf

27 ოგოვე წყარო

28 UNESCO, 1999. Diplomatic Conference on a Draft Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict 15 - 26 March 1999. Retrieved from: http://www.unesco.org/new/file-admin/MULTIMEDIA/HQ/CLT/pdf/hague_1999_diploconf_precis_en_20120523.pdf

tion of 1954 has this disadvantage, according to which it is not defined how to provide information to such groups²⁹.

Finally, it can be said that both of the above-mentioned conventions are one of the most important parts of international humanitarian law. In general, treaties and conventions are the main sources of the rules and regulations of the IHL, which oblige the participating states to comply with their terms³⁰.

As mentioned above, International humanitarian law protects the rights of people who do not/no longer take part in hostilities and defines the means and methods of waging war. However, joining these agreements is only the first step. Implementation of humanitarian law is needed - turning rules into action. The term implementation includes all measures necessary to ensure that the norms of international humanitarian law are duly considered; But it is not enough to apply these norms only when hostilities begin. There are measures to be taken both in wartime and in peacetime. Taking these measures is necessary to ensure that: 1) both civilians and military personnel have information about the norms of international humanitarian law; 2) appropriate bodies, administrative measures/regulations and personnel to implement existing laws and regulations within the framework of IHL; 3) Prevent violations of humanitarian law, and if such violations still occur, implement appropriate punitive mechanisms.

All states have their individual obligation to take and implement measures of humanitarian law. Said measures may be taken by one or more states, executive and legislative, as well as judicial authorities operating within the country, armed forces or other law enforcement agencies or state bodies. Professional or educational institutions, the National Red Cross or Red Crescent Society or other voluntary organizations may also be involved in this process. It is interesting that relevant measures have been taken at the international level regarding violations of international humanitarian law. In particular, international tribunals were established in connection with various military actions (eg, the UN tribunal regarding mass violations of human rights during hostilities in the territory of former Yugoslavia and Rwanda), as well as international investigation commissions in relation to various military conflicts (including the Russia-Georgia war), etc. It is recommended that the states use the services of the mentioned organizations. However, the primary responsibility for the effective implementation of the law rests with the states and they must take measures at their national levels³¹.

29 Hausler, K., Bongard, P., & Lostal, M. (2019, May 29). 20 Years of the Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in Armed Conflict: Have All the Gaps Been Filled? Retrieved from printfriendly.com: <https://www.printfriendly.com/p/g/sWmFLV>

30 International Justice Resource Center. (n.d.). INTERNATIONAL HUMANITARIAN LAW. Retrieved from ijrcenter.org: <https://ijrcenter.org/international-humanitarian-law/>

31 საერთაშორისო ჰუმანიტარული სამართლის საკონსულტაციო სამსახური. (2002 წლის ივნისი). საერთაშორისო ჰუმანიტარული სამართლის იმპლემენტაცია. მოპოვებული tsu.ge: https://tsu.ge/data/file_db/faculty_law/Implementation.pdf-დან

Violation of international humanitarian law on the example of the Russia-Georgia war (case study). There are many examples of violation of international humanitarian law worldwide, one of them can be found in our reality, which is related to August War of 2008 between Russia and Georgia. After the hostilities ended, Human Rights Watch called on Russia and Georgia to investigate “violations of the laws of war” during the August conflict. In its 200-page report “In Flames: Violations of International Humanitarian Law during the Conflict in South Ossetia,” the human rights organization noted that Russia used indiscriminate and disproportionate force, and South Ossetian forces carried out “the deliberate and systematic destruction campaign of villages inhabited by ethnic Georgians in South Ossetia”³².

“Focusing on who started the war or who committed the worst crimes, as some observers do, diverts our attention from the most important issue, which is the urgent need to bring the perpetrators to justice and allow the displaced to return safely to their homes,” said Rachel Danber, Director of Europe and Central Asia Division of Human Rights Watch. According to the report, in some cases in South Ossetia and the rest of Georgia, Russian military forces carried out indiscriminate air, artillery and tank attacks, as a result of which “many civilians were killed and wounded”; Russia has also carried out indiscriminate missile attacks on populated areas, resulting in casualties. According to the report, HRW has documented several cases where the Russian military opened fire on civilian vehicles during the occupation of Gori region, resulting in the deaths and injuries of civilians. The report blames Russia for the fact that Russia, as an occupying power, failed to fulfill its obligations under the norms of international humanitarian law in the territories occupied by it. According to the report, at least four Georgian prisoners and at least three convicted by South Ossetian forces were tortured. The report also states that “Both Georgia and Russia should conduct impartial and thorough investigations into crimes committed by their militaries,” said Rachel Denbury³³.

Finally, it should be noted that regardless of whether effective steps are taken in all armed conflicts or whether all states strictly follow the norms and regulations of international humanitarian law, in all cases, ensuring respect for the civilian population and civilian objects and their protection from hostilities is an international humanitarian obligation. It is one of the most important goals of the law. Taking into account the modern reality, the provisions regulating precautionary measures are quite flexible, but avoiding errors and misinterpretation of the rules of international humanitarian law is unavoidable in some cases³⁴.

Conclusion. In general, it can be said that international humanitarian law is an international

32 კობახიძე, ო. (2009 წლის 23 იანვარი). Human Rights Watch-ის მოხსენება აგვისტოს ომის შესახებ. მოპოვებული Civil.ge: <https://civil.ge/ka/archives/145634>-დან

33 კობახიძე, ო. (2009 წლის 23 იანვარი). Human Rights Watch-ის მოხსენება აგვისტოს ომის შესახებ. მოპოვებული Civil.ge: <https://civil.ge/ka/archives/145634>-დან

34 კეგინე, ჟ. ფ. (2006). საბრძოლო მოქმედებების წესებით დადგენილი სიფრთხილის ზომები. წითელი ჯვრის საერთაშორისო მიმოხილვა.

legal field that includes all international treaties, conventions and other acts that concern the fate of people in armed conflicts. The customs and laws of war limit as much as possible the possibility of starting a war, and in the event of an armed conflict, they establish mandatory rules of conduct for both military formations and individual soldiers, prohibit the use of certain types of weapons, protect civilians, prisoners of war, protect material values/cultural heritage during armed conflicts etc.

Despite the fact that a war/unprovoked aggression is declared illegal, this does not exclude the possibility of starting such a war. On the other hand, such an act leads to a fair armed struggle on the part of the victim of aggression, i.e. defensive war. So do people who are forced to take up arms in order to gain national independence. Today, there are frequent non-international armed conflicts that take place within one particular state. There may be conflicts between two states, but the nature of aggression may not be determined. The use of troops by the international coalition against aggression or dictatorial regimes has become a reality (eg in the cases of Iraq, Libya, Afghanistan). Thus, at the current stage, the danger of war has not been eliminated in a long term perspective. It is true that the specific importance of the laws and customs of war in international law has greatly decreased (in the recent past it was called the “law of war and peace”), but considering the present, they have an increasingly large place in the activities of international organizations, especially the International Committee of the Red Cross.