

Humanitarian Assistance in 21 Century: Between Humanity and Sovereignty

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Abstract

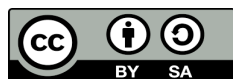
Humanitarian assistance is one of the actions that can be taken to limit and reduce the impact of armed conflict. Humanitarian assistance is aimed at civilians during armed conflicts. The purpose of this study is to analyze the position of humanitarian assistance in the 21st century. This research was conducted through conceptual and comparative approaches, as well as using normative legal research methods, also using prescription analysis techniques. The results showed that the principle of distinction is the basic principle of humanitarian assistance, which means that this assistance is mandatory. State sovereignty must still be recognized and upheld in the context of providing humanitarian assistance. States have the primary responsibility to provide assistance to their peoples in the midst of armed conflict as one of the parties responsible for armed conflict, external humanitarian actors must respect the agreement and cooperation of States affected by armed conflict.

Keywords: *humanitarian assistance; humanity; law of war.*

Abstrak

Bantuan kemanusiaan merupakan salah satu Tindakan yang dapat dilakukan untuk membatasi dan mengurangi dampak dari adanya konflik bersenjata. Bantuan kemanusiaan ditujukan kepada masyarakat sipil selama konflik bersenjata. Tujuan dari penelitian ini untuk menganalisis kedudukan humanitarian assistance di abad 21. Penelitian ini dilakukan melalui pendekatan konseptual dan komparatif, serta menggunakan metode penelitian hukum normatif, juga menggunakan teknik analisis preskripsi. Hasil penelitian menunjukkan bahwa prinsip pembedaan adalah prinsip dasar bantuan kemanusiaan yang artinya bantuan ini merupakan hal yang wajib. Kedaulatan negara harus tetap diakui dan dijunjung tinggi dalam rangka pemberian bantuan kemanusiaan. Negara mempunyai tanggung jawab utama untuk memberikan bantuan kepada masyarakatnya yang sedang dilanda konflik bersenjata sebagai salah satu pihak yang bertanggung jawab pada konflik bersenjata, aktor kemanusiaan eksternal harus menghormati persetujuan dan kerja sama negara-negara yang terkena dampak dari konflik bersenjata

Keywords: bantuan kemanusiaan; kemanusiaan; hukum perang.



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A. INTRODUCTION

States are the primary legal subjects in international law^{1,2,3} possessing full authority and power over their population, territory, and jurisdiction. The relations between states in international relations and international law should be based on good faith and mutual maintenance of peace and public order, with the aim of achieving peace among nations, which is one of the objectives of the United Nations (UN)^{4,5,6}. In reality, in the interactions between states, conflicts often arise from differences in perspectives and interests, and not all issues or conflicts between states can be resolved peacefully under international law. State conflicts can be categorized as external conflicts that occur between states or between subjects of international law, and internal conflicts that occur within a state^{7,8}. International law also governs the resolution of disputes/conflicts in two categories: peaceful dispute resolution, which is the method agreed upon by the parties to resolve disputes, such as mediation, negotiation, fact-finding, and diplomacy. If a peaceful resolution cannot be found, the next method for resolving disputes that can be employed is through the use of force, one of which is warfare

War, which is later known as armed conflict in international law can be divided into two types: International armed conflict (IAC) and Non-International Armed Conflict (NIAC). In an International Armed Conflict, the parties involved are typically states against states or states against belligerent groups⁹. On the other hand, in a Non-International Armed Conflict, the parties involved are a state against insurgent groups¹⁰. On the other hand, in a Non-International Armed Conflict, the parties involved are a state against insurgent groups. Apart from the parties involved, the distinction between these conflicts is related to the escalation of the armed conflict. International law regulates these distinctions through international humanitarian law. International humanitarian law aims to provide protection to civilians and other parties not

¹ Ria Wierma Putri et al., "The Paradox of the International Law Development: A Lesson from Covid-19 Pandemic Management," *Lex Scientia Law Review* 7, no. 1 (2023), <https://doi.org/10.15294/lesrev.v7i1.61999>.

² Emi Eliza, Heryandi Heryandi, and Ahmad Syofyan, "Intervensi Kemanusiaan (Humanitarian Intervention) Menurut Hukum Internasional Dan Implementasinya Dalam Konflik Bersenjata," *FIAT JUSTISIA: Jurnal Ilmu Hukum* 8, no. 4 (2015): 629–41, <https://doi.org/10.25041/fiatjustisia.v8no4.316>.

³ Massimo Marelli, "The Law and Practice of International Organizations' Interactions with Personal Data Protection Domestic Regulation: At the Crossroads between the International and Domestic Legal Orders," *Computer Law & Security Review* 50 (September 1, 2023): 105849, <https://doi.org/10.1016/J.CLSR.2023.105849>.

⁴ United Nations, "UN Charter," UN Charter § (1945).

⁵ Matthew M Kavanagh et al., "Increasing Compliance with International Pandemic Law: International Relations and New Global Health Agreements," *The Lancet* 402, no. 10407 (September 23, 2023): 1097–1106, [https://doi.org/10.1016/S0140-6736\(23\)01527-1](https://doi.org/10.1016/S0140-6736(23)01527-1).

⁶ Scott Pace, "U.S. Space Policy and Theories of International Relations: The Case for Analytical Eclecticism," *Space Policy* 65 (August 1, 2023): 101538, <https://doi.org/10.1016/J.SPACEPOL.2022.101538>.

⁷ Liulong Zu, Desheng Wu, and Shoujun Lyu, "How to Move from Conflict to Opportunity in the Not-in-My-Backyard Dilemma: A Case Study of the Asuwei Waste Incineration Plant in Beijing," *Environmental Impact Assessment Review* 104 (January 1, 2024): 107326, <https://doi.org/10.1016/J.EIAR.2023.107326>.

⁸ Itzhak Aviv and Uri Ferri, "Russian-Ukraine Armed Conflict: Lessons Learned on the Digital Ecosystem," *International Journal of Critical Infrastructure Protection* 43 (December 1, 2023): 100637, <https://doi.org/10.1016/J.IJCIP.2023.100637>.

⁹ Geneva Graduate Institute, "Classification of Armed Conflict," Geneva Academy of International Humanitarian Law and Human Rights, 2022.

¹⁰ Ruth Abril Stoffels, "Legal Regulation of Humanitarian Assistance in Armed Conflict: Achievements and Gaps," *Revue Internationale de La Croix-Rouge/International Review of the Red Cross* 86, no. 855 (2004): 515, <https://doi.org/10.1017/s1560775500181027>.

directly involved in the armed conflict within the conflict zone¹¹. Rules governing armed conflicts are outlined in several agreements, including the St. Petersburg Declaration of 1868, the Hague Conventions of 1899 and 1907, the Geneva Conventions of 1949, Additional Protocols I and II of 1977, and the Rome Statute of 1998. In addition to these legal rules, there are several principles that parties must adhere to during armed conflicts involving them, including *Military Necessity*¹², *Chivalry*¹³, *Humanity and Distinction principle*¹⁴.

During armed conflicts, whether international or non-international, civilians are often the victims. There is a prohibition against direct attacks on civilians, established in both the common Article 3 of the Geneva Conventions and Article 4 of the Second Protocol. Additionally, customary international humanitarian law, as described in the 2005 International Committee of the Red Cross (ICRC) study¹⁵, reinforces this prohibition. This prohibition against direct attacks on civilians is a fundamental principle of international humanitarian law, aimed at protecting the civilian population from the horrors of armed conflict and ensuring their safety and well-being, even in the midst of hostilities. It underscores the importance of distinguishing between combatants and non-combatants and emphasizes the need to minimize harm to civilians during armed conflicts. The principle of distinction between civilians and combatants during armed conflict is essential for the protection of civilians. This differentiation is used to determine who can be targeted in the event of armed conflict. Forms of executing this distinction principle include moving civilians to areas not involved in the armed conflict (internally displaced persons); relocating populations to other, safer areas outside the warring country (refugees); and humanitarian assistance to civilians. This separation is crucial to determine who can be legitimately targeted during the conflict. The implementations of this principle include moving civilians to areas not engaged in the armed conflict (resulting in internally displaced persons); relocating people to other, safer regions or countries not involved in the conflict (resulting in refugees); and providing humanitarian assistance

Humanitarian assistance, which can be carried out by states, international organizations, and non-state actors, is one of the ways to provide aid to civilian populations in areas affected by armed conflict. Initially, humanitarian assistance was defined as a humanitarian intervention that does not involve the use of military force, as articulated by Grotius. principle of distinction between civilians and combatants during armed conflict is essential for the protection¹⁶ However, the evolution of humanitarian assistance in modern times is interpreted as the obligation of states, international organizations, and non-state actors to provide aid to civilians

¹¹ Haidi Willmot and Scott Sheeran, "The Protection of Civilians Mandate in Un Peacekeeping Operations: Reconciling Protection Concepts and Practices," *International Review of the Red Cross* 95 (2014): 517–38, <https://doi.org/10.1017/S1816383114000095>.

¹² Robert Kolb, "Military Objectives in International Humanitarian Law," *Leiden Journal of International Law* 28, no. 3 (2015): 691–700, <https://doi.org/10.1017/S0922156515000369>.

¹³ Danial, "Efektifitas Konsep Prinsip Pembedaan Hukum Humaniter Internasional Sebagai Upaya Perlindungan Korban Dalam Konflik Bersenjata Modern," *Jurnal Media Hukum* 23, no. 2 (2016): 200–208, <https://doi.org/10.18196/jmh.2016.0080.200-208>.

¹⁴ Lawrence Hill-Cawthorne, "Humanitarian Law, Human Rights Law and the Bifurcation of Armed Conflict," *International and Comparative Law Quarterly* 64, no. 2 (2015): 293–325, <https://doi.org/10.1017/S002058931500010X>.

¹⁵ Hugh Breakey, "The Protection of Civilians in Armed Conflict," in *Norms of Protection: Responsibility to Protect, Protection of Civilians and Their Interaction*, (UNUP, 2012), 40–61.

¹⁶ Hugo Grotius, *De Iure Belli Ac Pacis (The Rights of War and Peace)*, 1625.

in armed conflict. The form of humanitarian aid referred to in humanitarian law is indeed not specifically defined, but it is mentioned in the Fourth Geneva Convention of 1949 that the assistance that can be provided includes food, clothing, health, access to education, and other aid.¹⁷ The primary challenge that humanitarian relief organizations now deal with is that nations involved with armed conflict refuse to grant admission because they mistrust each other's sovereignty and independence, although the fact that civilians in these areas are urgently in need of assistance. UNHCR, FAO, and UNICEF all took the initiative to provide assistance to civilians affected by the humanitarian situation in accordance with the mandate of the General Assembly Resolution, but President Assad blocked their entrance during the Syrian conflict. Res 46/182 “*Strengthening of the Coordination of Humanitarian Emergency Assistance of the united nations and the Guiding Principles in its annex*”¹⁸.

This research is important because assistance related to the needs of the civilian population is prohibited and unable to be provided for a variety of reasons, including the state or organization's independence and sovereignty. The majority of research papers regarding humanitarian assistance, like that by Eric Adjei published in 2005, concern the legality of such assistance. In this research, Eric analyzes if it is legitimate to states and international organizations to provide assistance to areas affected by armed conflict in behalf of the UN. states and in obedience to international standards. Meanwhile, based to research by Ahmed Alameldeen, international organizations may apply diplomacy to distribute help through other nations and international organizations. Eliza's research showed the UN's alongside other international organizations' essential role in providing humanitarian assistance. Aim study focuses on the issue of what humanitarian assistance in 21 century: between humanity and sovereignty?

B. METHOD

This article methods is normative legal research¹⁹. This research process is carried out through a conceptual and comparative approach²⁰ about humanitarian assistance by expert in international law. In addition this research also use the relation between humanitarian assistance and sovereignty. his study also uses normative legal research methods, doctrinal, and quality analysis techniques based on Prescriptive approach was used to assist with the examines of the legal material.

¹⁷ Emilie Ellen Kuijt, “Humanitarian Assistance and State Sovereignty in International Law : Towards a Comprehensive Framework” (universiteit leiden, 2020).

¹⁸ united nations, “General Assembly Resolution 46/182 (On Strengthening of the Coordination of Humanitarian Emergency Assistance of the United Nations) (19 December 1991),” *UN. General Assembly*, 1992, <https://doi.org/10.1163/ilwo-iiiu14>.

¹⁹ Tunggul Ansari and Setia Negara, “Normative Legal Research in Indonesia: Its Originis and Approaches,” *Audito Comparative Law Journal (ACLJ)* 4, no. 1 (February 2, 2023): 1–9, <https://doi.org/10.22219/ACLJ.V4I1.24855>.

²⁰ Arsyi Manggali, Arya Putra, and Nur Putri Hidayah, “Implementation of Business and Human Rights Principles (UNGPs) in the Protection given to Indonesian Laborers: Gender Perspective,” *Jurnal Cita Hukum* 11, no. 1 (April 30, 2023): 163–76, <https://doi.org/10.15408/JCH.V11I1.29022>.

C. RESULTS AND DISCUSSIONS

1. Humanitarian Assistance as humanity

Hugo Grotius (1583-1645), in his book “*de Jure Belli ac Pacis*” Grotius laid the groundwork for the idea of just war and examined the rights and responsibilities of nations in conflict. In his idea had important implications for humanitarian assistance, the key aspects related to humanitarian assistance by Grotius include: a). Protection of civilians, In his book Grotius emphasized that civilian should not be targets during the armed conflict²¹. This is the foundation for protection of civilians in war. b). Treatment of prisoners, He argued that prisoner of war must be treated humanely and not harmed. This is was a radical departure from state practice of the time. Which often saw prisoners being treated poorly or even executed without fair trial. Humanitarian assistance by Grotius did not specifically focus like humanitarian assistance like now, but principle of protection of civilian and treatment of prisoners being foundation in developments in international humanitarian law. Specially in Geneva Convention 1949 and Additional Protocol 1977 and the international committee of the red cross (ICRC).

Since the fundamental objective of the ICRC was to provide assistance to civilian populations affected by armed conflicts, it was initially perceived as a partly humanitarian intervention. The history of humanitarianism is replete with similar seminal moments that shaped the movement's development and ultimately gave rise to the contemporary manifestation. Various frameworks for segmenting the history of aid efforts have been offered by some scholars. In their description of "ages of humanitarianism," Barnett and Farré start with the "imperial humanitarianism" era, which lasted from the early nineteenth century until World War II, and then "liberal humanitarianism"²². According to several writers, the World Wars marked significant turning moments in the humanitarian movement's history.²³

in this late 19th and early 20th century the expansion of humanitarian assistance indicated by the increasing number of international organization that have been establish with humanitarian objectives. Before the emergence of various international organizations with humanitarian objectives, the early 19th century witnessed a shift in views on humanitarian assistance influenced by religious teachings. Within several religions, doctrines dictate that women and children should not be attacked during armed conflicts, and assistance must be provided to those injured and ill due to such conflicts. Colonization in the 19th century also gave rise to the initial concept of humanitarian action. In India, colonization by the British led to famine, refugees, and sanitation problems. This situation was addressed with the emergence of a humanitarian response in collaboration with the Red Cross and Red Crescent Movement, spearheaded by Henri Dunant, marking a turning point in the humanitarian response to war.

the 20th century, with the end of World War II and the founding of the United Nations, international organizations played a significant role as key actors in humanitarian action during this era. The United Nations, as a universal international organization, has several subsidiary

²¹ Stephen C. Neff, *Hugo Grotius on the Law of War and Peace*, Hugo Grotius on the Law of War and Peace, 2011, <https://doi.org/10.1017/CBO9781139031233>.

²² Mark Anderson, Kristin Becknell, and Joanna Taliano, “History of Humanitarian Emergencies,” in *Health in Humanitarian Emergencies: Principles and Practice for Public Health and Healthcare Practitioners* (Cambridge: cambridge University Press, 2018), 9–24, <https://doi.org/10.1017/9781107477261.003>.

²³ Anderson, Becknell, and Taliano., *Ibid*

bodies that play a role in providing humanitarian assistance and responding to humanitarian crises, whether caused by armed conflicts or natural disasters. Initially, the UN faced difficulties in "getting involved" in armed conflicts because the UN Charter stated that intervention in the affairs of a sovereign state was prohibited²⁴. The UN General Assembly adopted Resolution 46/182, "Strengthening the coordination of humanitarian emergency assistance of the United Nations," in the following years. The resolution established the foundation for the initial list of guiding principles related to humanitarian assistance. This resolution allowed the UN and various other international organizations authority to get involved in armed conflicts and deliver humanitarian aid to civilian people there. As an illustration, it enabled them to: Following this resolution, the first Humanitarian Relief Coordinator, Jan Eliasson, was appointed, and UNDRO was accepted into the recently formed UN Department for Humanitarian Affairs (UNDHA).²⁵

Another significant development happened in 1998, when UN reform, headed by then-Secretary-General Kofi Annan, resulted in the separation of DHA into the newly founded Office for the Coordination of Humanitarian Affairs (OCHA), which continues to work today²⁶. Also, the UN established the internationally recognized Hyogo Framework for Action and its "International Strategy for Disaster Reduction," both of which were aimed at preventing and minimizing catastrophe risk. Alongside these institutional adjustments, the UN realized that interaction with its field partners and coordination amongst its agencies were essential²⁷.

The existence of rules and legal foundations for providing humanitarian assistance to civilian populations in situations of both international and non-international armed conflicts, as well as in disasters, has indeed raised some issues where such aid is given. In some instances, affected states may reject humanitarian assistance on the grounds of national sovereignty, although this is not permissible under international law. States have the right to uphold their sovereignty, but if it leads to loss of life, damage to civilian infrastructure, and the displacement of their population to other countries as refugees, whether due to non-international or international armed conflicts, the state is obligated to provide protection to civilian populations. If the conflicted state is unable to do so, neighboring states in the conflict area are allowed to provide assistance to civilian populations. International humanitarian organizations are also permitted to provide humanitarian aid to civilian populations affected by armed conflicts. Humanitarian assistance, as a form of *erga omnes*, which is an obligation of the international community, must always be carried out and considered a duty. The development of understanding about humanitarian assistance shows that it is something of great importance.

2. Relation Between Humanitarian Assistance and Sovereignty

The development of the concept of sovereignty in international law has been a complex and evolving process²⁸. Sovereignty is a fundamental principle in international law that deals

²⁴ united nations, un charter.

²⁵ Marina Sharpe, "It's All Relative: The Origins, Legal Character and Normative Content of the Humanitarian Principles," *International Review of the Red Cross*, 2023, <https://doi.org/10.1017/S1816383123000292>.

²⁶ UNOCHA, "United Nations Office for the Coordination of Humanitarian Affairs," 2021.

²⁷ Kuijt, "Humanitarian Assistance and State Sovereignty in International Law: Towards a Comprehensive Framework."

²⁸ Samantha Besson, "Sovereignty," Oxford Public International law, 2023.

with the authority and independence of states within the international system. The concept has undergone several key developments over the years: *First*, Westphalian Sovereignty, the principle of non-intervention and the idea of territorial delimitation of the state's authority were formally established when the Peace of Westphalia in 1648, which is widely cited as the foundation of the modern concept of sovereignty. Westphalian sovereignty was groundbreaking in two ways: first, it recognized secular authority as the final and autonomous authority over a certain territory, and second, it forbade any outside involvement, religious or secular, within the boundaries of sovereign jurisdiction. Which ended the Thirty Years' War. This treaty is considered the birth of the Westphalian system, which established the idea that states have exclusive control over their domestic and foreign affairs²⁹. It marked the beginning of the state-centric system in international relations.

Challenge by Imperialism and Colonialism: During the era of imperialism and colonialism, many non-European societies experienced a loss of sovereignty as European powers established colonial rule over vast territories. This raised questions about the universality of sovereignty and the treatment of non-European states. Conceptualizing modern sovereignty by Jean Bodin, *First*, differs the sovereignty from the person of the sovereign and the sovereignty itself. *Second*, sovereign authority cannot by definition be subject to any rule or restriction; sovereignty amounts to the absolute and perpetual power of the Republic³⁰. In this opinion, Bodin explains that sovereignty represents the absolute power of a state in its various forms. The concepts of sovereignty as an impersonal function, limited sovereignty, and legal sovereignty—which eventually became the cornerstones of the contemporary understanding of sovereignty—had already begun to take shape by the time Bodin published his model of sovereignty. With their *Leviathan*, Thomas Hobbes and John Locke reinterpreted the concept of sovereign authority³¹ and contract theory, that holds that there is a contract between individuals and the government instead of a social contract between citizens.³²

Second, **Self-Determination**, after world war II the process of decolonization led to the emergence of many new independent states. The principle of self-determination gained prominence, asserting that peoples have the right to determine their own political status and pursue their economic, social, and cultural development. The principle of self-determination gained prominence in the 20th century. It asserted that people have the right to determine their political status, pursue their economic, social, and cultural development, and freely dispose of their natural wealth and resources. This principle led to decolonization and the emergence of numerous new states. After World War II, state sovereignty was recognized as an essential factor. State sovereignty is still important in modern increasingly globalized world, as evidenced by the recent concerns around China's ascent and the UK's leaving from the European Union (EU).³³. These two instances highlight state sovereignty as an important issue in terms of the global realities of the expanding international sphere. State sovereignty, however, is

²⁹ Besson.

³⁰ Stephen D. Krasner, "Abiding Sovereignty," *International Political Science Review* 22, no. 3 (2001): 243.

³¹ Richard Louis Lara, "The Problem Of Sovereignty , Intellectual Conscience," *Journal of the Philosophy of International Law* 5, no. 1 (2014): 1–26.

³² Besson, "Sovereignty."

³³ Michael Gordon, "Referendums in the UK Constitution: Authority, Sovereignty and Democracy after Brexit," *European Constitutional Law Review* 16, no. 2 (2020): 213–48, <https://doi.org/10.1017/S1574019620000152>.

frequently associated with the larger discussion around the domestic authority to administer and enact laws under the right to self-determination. Even while decolonization gives rise to new emerging and developing countries, the discussion today goes beyond feelings of imperialism and colonialism. The controversial field of national interests among industrialized countries has been invaded by the difficult junction of globalism and the burgeoning hypernationalism.

The sovereignty of states represents the fundamental constitutional doctrine that governs a community, primarily encompassing states equal status under the law. States that are sovereign are equal. In other states and recognized authorities, their sovereignty becomes significant. Sovereignty refers to the ability of law to apply a certain function by giving an explanation for its use. This paper, however, will contend that it has a complex and long past. Put differently, it can have several interpretations and rationalizations. Sovereignty in this context is not to be confused with any particular substantive right. Sovereignty is a state associated with a specific power, such as the legislative branch over the nation's territory, and referred to as sovereignty or sovereign rights. Sovereign state immunity refers to the necessary requirement to respect territorial sovereignty and territorial jurisdiction. Thus, sovereignty is defined as the power to exercise rights and powers based on customary law without the express permission of another state.

State sovereignty in international relations plays a primary role in upholding the constitutional independence of other states. It emphasizes national independence by referring to the constitution as the supreme source, not as part of a broader constitutional agreement. It asserts that states should freely manage domestic affairs without pressure or interests from other states or parties. During the decolonization era, self-determination was one of the methods chosen by new states to break free from colonization. Kosovo declared separation from Serbia on February 17, 2008, during a parliamentary session attended by 109 members of parliament.³⁴ Previously Kosovo was a province ruled by Serbia, with a majority of Albanian ethnicity. According to international law, the right to self-determination is a human right. Every nation has the freedom to choose its political structure and to pursue its own goals of social, cultural, and economic advancement. Yet, according to international law, self-determination is a sort of independence that attempts to free oneself from colonialism and foreign forces. In the case of recognition, it is difficult to distinguish between political and legal elements because the process of granting and refusing recognition by the state is often influenced by political concerns, despite the fact that the outcome is legally binding. The definition or elements of the state are given in the Montevideo Convention 1933, where recognition is a declarative element and if all constitutive elements are satisfied by the political community, then it has automatically become a State and must be treated as such by other States.

Third, International Organizations, the establishment of international organizations such as the United Nations introduced the idea of limited sovereignty. Member states of these organizations agree to adhere to certain rules and obligations, which may restrict their absolute sovereignty in some areas in exchange for the benefits of international cooperation. Human Rights and Humanitarian Intervention: The growing importance of human rights in

³⁴ Dajena Kumbaro, "The Kosovo Crisis in an International Law Perspective: Self-Determination, Territorial Integrity and the Nato Intervention," *NORTH ATLANTIC TREATY ORGANISATION Office of Information and Press*, 2001, 75.

international law has led to discussions about the responsibility to protect. In cases of severe human rights abuses, the international community may intervene, even without the consent of the sovereign state, to protect the rights of individuals.

International Organization has become apparent that a primary role, is envisaged for the affected states or other authorities acting as such, the ICRC, the UN and other organisations and institutions also play a large role in the provision of such assistance³⁵. Distinction must be made between international organizations such as UN, WHO, UNHCR and EU because EU is inter-governmental characteristic a subject of international law whereas UN and the agents as a supranational as a subject of international law. The distinction is used to indicate the application of the principle of impartiality in the provision of humanitarian assistance by international organizations.

The Geneva Convention and their additional Protocols refer to ICRC or the other Organization that follow its principles of humanity³⁶, impartiality and neutrality for the provision of humanitarian assistance. It's not uncommon for humanitarian workers to encounter issues when dealing with conflicting parties. Some of the common problems experienced by aid providers include: (a) Becoming targets of armed attacks from one of the conflicting parties. (b) Facing the risk of being taken hostage by one of the conflicting parties. (c) Dealing with security and safety risks for the members of humanitarian aid organizations. These risks highlight the challenging and sometimes dangerous environments in which humanitarian workers operate to provide assistance to those in need during conflicts and crises. (d). It is a delicate and complicated matter when a state involved in armed conflict, like *Colombia v. Unidas de Colombia*, refuses an application on the basis of sovereignty. Such denials often stem from the concerned state's attempt, even in the middle of a dispute, to maintain control over its own affairs. They can see foreign aid for humanitarian purposes as a violation of national sovereignty. International organizations and humanitarian actors must strike a balance between the obligation to offer humanitarian aid to individuals in need and the concept of state sovereignty in situations such as these. In order to ensure that aid reaches the impacted populations without jeopardizing the sovereignty of the state in question, resolving these concerns requires tactful diplomacy and negotiation.

Fourth, Globalization and Interdependence, the increasing interdependence of states in areas like trade, the environment, and security has challenged traditional notions of sovereignty. States must now cooperate on a wide range of global issues, necessitating a more flexible approach to sovereignty. Sovereignty in the Digital Age: The digital revolution and the borderless nature of the internet have raised new questions about sovereignty in cyberspace. Issues such as data protection, cyber warfare, and online governance challenge traditional conceptions of state sovereignty. The concept of sovereignty in international law has evolved over time due to historical events, the rise of international organizations, the promotion of human rights, and the realities of globalization. The tension between the absolute sovereignty of states and the need for international cooperation continues to be a central issue in contemporary international relations.

³⁵ Kuijt, "Humanitarian Assistance and State Sovereignty in International Law : Towards a Comprehensive Framework."

³⁶ the norwegian refugee council, "Humanitarian Principles," 2016.

Sovereignty and humanitarian assistance are crucial topics in international relations and law^{37,38,39}. Sovereignty refers to a state's supreme authority over its territory and affairs. It implies that a state has the right to govern itself without external interference. On the other hand, humanitarian assistance involves providing aid and support to people in need, often in response to crises like natural disasters or armed conflicts. The relationship between sovereignty and humanitarian assistance is complex. States are generally expected to respect the sovereignty of other states. However, there are situations where humanitarian assistance may be provided without violating sovereignty.

D. CONCLUSION

When we discussing the issue about humanitarian assistance as a part of International Humanitarian Law by legal, international relation and political aspects are almost in separable. The distinction principle is fundamental principle for humanitarian assistance. the sovereignty of states should still be acknowledged and upheld states have the primary responsibility for providing assistance to their populations and external humanitarian actors should respect the consent and cooperation of the affected states.

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³⁷ Sultan Barakat, Logan Cochrane, and Iana Vasekha, "The Humanitarian-Development-Peace Nexus for Global Food Security: Responding to the Climate Crisis, Conflict, and Supply Chain Disruptions," *International Journal of Disaster Risk Reduction*, November 7, 2023, 104106, <https://doi.org/10.1016/J.IJDRR.2023.104106>.

³⁸ Christine G. Schenk and Shalul Hasbullah, "Informal Sovereignties and Multiple Muslim Feminisms: Feminist Geo-Legality in Sri Lanka," *Political Geography* 94 (April 1, 2022): 102527, <https://doi.org/10.1016/J.POLGEO.2021.102527>.

³⁹ Ghassan Elkahlout et al., "Localisation of Humanitarian Action in War-Torn Countries: The Experience of Local NGOs in Yemen," *International Journal of Disaster Risk Reduction* 75 (June 1, 2022): 102921, <https://doi.org/10.1016/J.IJDRR.2022.102921>.

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