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Enforcing Consistency: A Comparative Analysis of Geneva Convention IV Violations in Morocco-Western Sahara and Israel-Palestine

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INTRODUCTION

Within nations and throughout the world, we continue to witness violations of international humanitarian law during armed conflicts. However, only some of those violations will receive a response and outcry from the global community condemning such actions. Different sources of international humanitarian law, such as the Geneva Conventions, provide specific rules designed to protect civilians and combatants during the conflict.¹ Nonetheless, violations of such laws continue to occur, but only some receive sanctions and community disapproval. Some armed conflicts likely receive more attention than others due to media promotion and global tendencies to focus on long-standing conflicts. Through a comparative analysis of the application of Geneva Convention IV, Article 49, this paper demonstrates the varying and inconsistent outcomes of Geneva Convention IV, Article 49 violations. After showing the difference in treatment of similar violations, this paper broadly recommends alternative enforcement methods to ensure greater deterrence of law violations and consistency in treating Geneva Conventions violations.

Through juxtaposed evaluation of two instances of armed conflict involving territorial occupation, this essay demonstrates that alternative methods of international law enforcement, such as enforcement through the provision of healthcare programs, may lead to a more valuable body of international humanitarian law less reliant on informal enforcement from the international community. This paper will proceed in several parts, beginning with an overview and explanation of the Geneva Conventions, its history and expected trends. Next, the essay will

¹ THE GENEVA CONVENTIONS OF 1949 AND THEIR ADDITIONAL PROTOCOLS (2014), <https://www.icrc.org/en/document/geneva-conventions-1949-additional-protocols> (last visited Mar 28, 2022).

evaluate alleged Geneva Convention IV, Article 49 violations by Morocco and Israel during the occupations of Western Sahara and Palestine, respectively. Then, it will compare the outcomes of the alleged violations and the international response commentary. Finally, based upon the result of the comparative analysis, the essay will conclude with recommendations on expanding current enforcement methods and fostering augmented compliance globally to yield a more consistent and enforceable body of international humanitarian law.

THE PURPOSE AND ENFORCEMENT OF INTERNATIONAL HUMANITARIAN LAW

International humanitarian law refers in part to both human rights and laws of war, or the law of armed conflict.² The law of armed conflict specifically governs the relationship between belligerent states or entities during times of armed conflict. While human rights law has a broad scope, the law of armed conflict is narrowly tailored in scope and application. Many principles within the law of armed conflict can be binding upon states under customary international law.³ However, the Geneva Conventions are often seen as the leading documents that guide wartime legal standards despite the difficulty of enforcing such legal standards on a global scale.⁴ Terminology within international humanitarian law may vary and can often make minute distinctions between critical terms of art.⁵ This paper will refer most commonly to international humanitarian law and discuss human rights and laws of war.

² Thomas Murphy, *Sanctions and Enforcement of the Humanitarian Law of the Four Geneva Conventions of 1949 and Geneva Protocol I of 1977*, 103 *Military Law Review* 3–77 (1984).

³ Jordan J Paust, *The Importance Of Customary International Law During Armed Conflict*, 12 *ILSA JOURNAL OF INTERNATIONAL & COMPARATIVE LAW* (2016).

⁴ Mary Ann Glendon, *The Rule of Law in the Universal Declaration of Human Rights*, 2 *Northwestern Journal of International Human Rights* 1–19 (2004).

⁵ Thomas Murphy, *Sanctions and Enforcement of the Humanitarian Law of the Four Geneva Conventions of 1949 and Geneva Protocol I of 1977*, 103 *Military Law Review* 3–77 (1984).

International humanitarian law comprises international legal principles and rules regarding the rights of citizens and military personnel across the world. These texts become especially relevant during war or instability when an occupying power may compromise these human rights. This body of law may consist of conventions, statutes developed from customary or common law, international declarations or covenants. Although naturally overlapping with parts of human rights and laws of war, international humanitarian law is typically seen as its own body of scholarship. International human rights law is primarily international rules established by treaty or custom, from which individuals or groups can expect or claim specific behavior or benefits from governments.⁶ International humanitarian law, which is the focus of this paper, is a set of rules which seek to limit the effects of armed conflict for humanitarian reasons.⁷ The fundamental principles of international humanitarian law include promoting and respecting an individual's well-being and laws aimed at assuring their well-being to the extent possible in times of hostile conflict.⁸

Many international humanitarian law texts also include provisions regarding citizens' health, safety, and wellness. For example, a law may require the people within an occupied territory to continue to have access to healthcare sources as healthcare is widely recognized by international leaders and the World Health Organization as a fundamental, inalienable human

⁶ International Committee of the Red Cross, WHAT IS THE DIFFERENCE BETWEEN IHL AND HUMAN RIGHTS LAW? INTERNATIONAL COMMITTEE OF THE RED CROSS (2019), <https://www.icrc.org/en/document/what-difference-between-ihl-and-human-rights-law> (last visited May 8, 2022).

⁷ International Committee of the Red Cross, THE DOMESTIC IMPLEMENTATION OF INTERNATIONAL HUMANITARIAN LAW A MANUAL INTERNATIONAL COMMITTEE OF THE RED CROSS (2015), <https://www.icrc.org/en/doc/resources/documents/publication/pdvd40.htm> (last visited May 8, 2022).

⁸ Joanne Lu, The 'Rules Of War' Are Being Broken. What Exactly Are They? (2018), <https://www.npr.org/sections/goatsandsoda/2018/06/28/621112394/the-rules-of-war-are-being-broken-what-exactly-are-they> (last visited Mar 28, 2022).

right.⁹ Although the right to healthcare services may seem to be a basic right, such provisions can also play an instrumental role in ensuring peace durability between countries in conflict.¹⁰ At least in the context of civil war, states that have increased access to healthcare are more likely to experience peace durability than those with less access.¹¹ Providing adequate healthcare can play an instrumental role in promoting peace between belligerent states and becomes an important consideration in establishing peace between warring countries, especially when there are violations of the law of war.¹² The term “health-peace initiative” refers to any action or plan intended to improve the health of a population and simultaneously heighten that population's level of peace and security.¹³

Health-peace initiatives can impact a community by providing solidarity and strengthening the social fabric while also reducing the destructiveness of war.¹⁴ The provision of healthcare can promote solidarity by providing care for individuals in complex and war-torn situations while also documenting and reporting instances of human rights violations. The initiatives can also strengthen the social fabric because healthcare is the primary means that society members use to express their commitment to each other's wellbeing.¹⁵ An adequate healthcare system represents all individuals' collective caring, support, and belongingness. Health-peace initiatives naturally reduce the destructiveness of war by caring for injured

⁹ Health is a fundamental human right, WORLD HEALTH ORGANIZATION (2017), <https://www.who.int/news-room/commentaries/detail/health-is-a-fundamental-human-right> (last visited May 8, 2022).

¹⁰ Alexandra L Wilson, *Post-civil war peace durability: The role of domestic infrastructure and military*, JMU SCHOLARLY COMMONS (2019).

¹¹ *Id.*

¹² Graeme MacQueen & Joanna Santa-Barbara, *Conflict and health: Peace building through health initiatives*, 321 *BMJ* 293–296 (2000).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

individuals and outlawing the usage of certain weapons based on their effects on health.¹⁶ The recording of the impact on health throughout war can help to implement future restrictions on the use of certain weapons or tactics that cause superfluous injury or unnecessary suffering as well.¹⁷ When evaluating healthcare's totality of influence on the well-being and ability of states or individuals to establish peace, it is clear that it is a fundamental part of enforcing other international laws too. In order to enforce laws of war, health-peace initiatives may play an instrumental role due to healthcare's ability to provide stability in areas of conflict.¹⁸ Especially in the instance where there is a dominant, occupying power, the provision of healthcare becomes a way to track violations, respond to the needs of people, and ensure that less dominant, occupied territory can sustain the violations of law inflicted upon them. For example, in Uganda, renewed healthcare infrastructure encouraged displaced people to return to their homes.¹⁹ In another instance, after the war ended in Bosnia-Herzegovina in 1985, the unified provision of healthcare between several nongovernmental organizations was claimed to reduce separatist attitudes.²⁰

While international humanitarian law is a cornerstone of providing safety and health to individuals across the globe, one of its particularities is that there is no central body or

¹⁶ Graeme MacQueen & Joanna Santa-Barbara, *Conflict and health: Peace building through health initiatives*, 321 *BMJ* 293–296 (2000).

¹⁷ Douglas Holdstock, Jack Piachaud & Robin M. Coupland, *The sirus project towards a determination of which weapons cause 'superfluous injury or unnecessary suffering,'* 14 *MEDICINE, CONFLICT AND SURVIVAL* 243–249 (1998).

¹⁸ Alex Vass, *Peace through health*, 323 *BMJ* 1020–1020 (2001).

¹⁹ JOANNA MACRAE, ANTHONY ZWI & HARRIET BIRUNGI, *A HEALTHY PEACE?: REHABILITATION AND DEVELOPMENT OF THE HEALTH SECTOR IN A "POST"-CONFLICT SITUATION - THE CASE OF UGANDA* (1995).

²⁰ Gregory Hess & World Health Organization, *WHO/DFID Peace Through Health Programme: A Case Study*, DEPARTMENT FOR INTERNATIONAL DEVELOPMENT (1999).

hierarchical institutions to enforce it.²¹ There are both positives and negatives to this approach. On the one hand, there are no discernible limits to what may constitute “enforcement” of international humanitarian law. Conversely, there are no baseline structures for enforcement either. Without a baseline structure for enforcement, there is a risk of non-action or inconstant response in instances where some international scholars or organizations may feel that action is warranted.

While there are reasons to voluntarily comply with international humanitarian law, enforcing international humanitarian law for countries that do not comply has been historically problematic. The United Nations Security Council's frequently used approach encourages, calls on, and demands belligerent States to comply with international humanitarian law.²² Furthermore, in some instances, the calls from the Security Council have been accompanied by the threat of coercive measures in the case of non-compliance; however, these generally have an insignificant effect on the party towards whom they are directed.²³ These frequently used sanctions are called “smart,” or targeted sanctions, limiting a belligerent state’s access to financial or natural resources. Smart sanctions are designed to force belligerent states to comply with international humanitarian law so that they may fully enjoy their access to resources. Less frequently used but still effective, the Security Council has also created international criminal tribunals, such as in the case of the former Yugoslavia and Rwanda. The tribunal handling the

²¹ Silja Voenekey, *Implementation and enforcement of international humanitarian law*, SSRN ELECTRONIC JOURNAL (2020).

²² Marco Roscini, *The United Nations Security Council and the enforcement of international humanitarian law*, 43 ISRAEL LAW REVIEW 330–359 (2010).

²³ *Id.*

crimes in the former Yugoslavia and Rwanda investigated and prosecuted those responsible for severe violations of international humanitarian law.²⁴

Notably, crimes in violation of international humanitarian law may receive varying levels of media coverage. Violations that receive high levels of media coverage can change individuals' expectations about the level of response they expect from political leaders.²⁵ Therefore, in instances where there is less media coverage, there is likely less pressure for entities, such as political leaders or the United Nations Security Council, to act or intervene in the situation.

In the case that the violations rise to the level of international concern, countries that have ratified the Rome Treaty may be held accountable to the International Criminal Court. Countries may submit cases that fall under one of the four main areas of crime that the International Criminal Court oversees, including genocide, crimes against humanity, war crimes which are breaches of the Geneva Conventions, and crimes of aggression.²⁶ The International Criminal Court only has jurisdiction over countries that have ratified the Rome Treaty.²⁷ However, if a non-member state's citizen commits such crimes within the borders of a member state, then they still may be held accountable.²⁸ Alternatively, states that are members or non-members may otherwise enforce international humanitarian law by incorporating laws and standards into their domestic law.

²⁴ G.A. Res. 827, U.N. Doc. S/RES/827 (May 25, 1993).

²⁵ Terrence L. Chapman & Dan Reiter, *The United Nations Security Council and the Rally 'Round the flag effect*, 48 JOURNAL OF CONFLICT RESOLUTION 886–909 (2004).

²⁶ How the court works, INTERNATIONAL CRIMINAL COURT, <https://www.icc-cpi.int/about/how-the-court-works> (last visited May 8, 2022).

²⁷ International Criminal Court, JOINING THE INTERNATIONAL CRIMINAL COURT WHY DOES IT MATTER?, <https://www.icc-cpi.int/sites/default/files/Publications/Joining-Rome-Statute-Matters.pdf> (last visited May 8, 2022).

²⁸ Human Rights Watch, Q&A: THE INTERNATIONAL CRIMINAL COURT AND THE UNITED STATES HUMAN RIGHTS WATCH (2022), <https://www.hrw.org/news/2020/09/02/qa-international-criminal-court-and-united-states#> (last visited May 8, 2022).

Despite the many attempts at enforcing international humanitarian law in the presence of belligerent states, there are still many boundaries to enforcement. One of the primary issues is that there are no clear guidelines on enforcing international humanitarian law or how to treat cases consistently.²⁹ Additionally, countries that have not ratified certain treaties, conventions or protocols are not legally bound to their provisions or determinations regarding war violations.³⁰ Furthermore, if there is inadequate media coverage for countries committing violations, the violations may be little known. Where the violations are little known, there will likely be less pressure from the international community to intervene and provide protection. However, there are links between providing adequate healthcare and establishing peace and stability. The use of health-peace initiatives has had positive outcomes in helping communities recover after war. Alongside considering the barriers to enforcement, it is helpful to understand the development and function of specific texts related to international humanitarian law.

HISTORY AND FUNCTION OF THE GENEVA CONVENTIONS

The Geneva Conventions originated after a series of international meetings in which state representatives came to a series of agreements regarding the Humanitarian Law of Armed Conflict.³¹ Twelve countries finalized the first version of the agreements in 1864. However, after establishing the first agreement, there were several indications that it needed to be changed and

²⁹ Silja Voenecky, *Implementation and enforcement of international humanitarian law*, SSRN ELECTRONIC JOURNAL (2020).

³⁰ International Criminal Court, JOINING THE INTERNATIONAL CRIMINAL COURT WHY DOES IT MATTER?, <https://www.icc-cpi.int/sites/default/files/Publications/Joining-Rome-Statute-Matters.pdf> (last visited May 8, 2022).

³¹ History.com Editors, GENEVA CONVENTION HISTORY.COM (2017), <https://www.history.com/topics/world-war-ii/geneva-convention> (last visited Mar 28, 2022).

revised to meet the needs of the changing world. In 1906 and 1929, conventions were held to update the laws regarding the civilized treatment of prisoners of war.³²

The agreement was significantly updated in 1949 after World War II. Due to the abuses of prisoners of war during World War II, an International Committee of the Red Cross Conference met in 1948 to extend and codify the existing provisions.³³ The conference ultimately developed four conventions which were approved in Geneva in 1949.³⁴ The approved conventions included: (1) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, (2) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, (3) the Convention Relative to the Treatment of Prisoners of War, and (4) the Convention Relative to the Protection of Civilian Persons in Time of War.

After World War II, several anti-colonial and insurrectionary wars endangered the Geneva Conventions. Two additional protocols were added to the Geneva Conventions in 1977.³⁵ Protocol I augmented protection for civilians, military workers and journalists during international conflict.³⁶ Protocol II was established in response to victims of civil war. It stated that all people who did not take up arms should be treated humanely.³⁷ In 2005, a Protocol was also added identifying additional symbols of identification for individuals delivering

³² History.com Editors, GENEVA CONVENTION HISTORY.COM (2017), <https://www.history.com/topics/world-war-ii/geneva-convention> (last visited Mar 28, 2022).

³³ Malcolm Shawn, GENEVA CONVENTIONS ENCYCLOPÆDIA BRITANNICA (2022), <https://www.britannica.com/event/Geneva-Conventions> (last visited Mar 28, 2022).

³⁴ *Id.*

³⁵ History.com Editors, GENEVA CONVENTION HISTORY.COM (2017), <https://www.history.com/topics/world-war-ii/geneva-convention> (last visited Mar 28, 2022).

³⁶ *Id.*

³⁷ *Id.*

humanitarian aid and deserving protection during wartime.³⁸ The Geneva Conventions, in totality, were developed for the protection of victims in armed conflicts.³⁹

As stated above, throughout the lifetime of the Geneva Conventions, numerous changes and additions were executed to respond to the results of international and civil war more accurately.⁴⁰ The triggering event for many of the changes tends to surround instances of high-profile humanitarian crises. However, human rights violations during war or occupation occur worldwide in more covert ways and sometimes go unnoticed. Responding to these understated violations as best as possible was the responsibility of the law and its makers, but enforcing it was an entirely different question. Like other areas of international humanitarian law, the Geneva Conventions, discussed below, are not impervious to follies of enforcement.

GENEVA CONVENTION IV

As previously noted, the Geneva Conventions consist of several different parts. Those parts lend a window into the purpose and content of the laws within them. For example, Geneva Convention IV references the protection of civilian persons in times of war. This particular body of international law and guidelines was developed in response to the tragedies of World War II and will be the primary focus of this paper.⁴¹ Within the 159 articles, the Geneva Convention IV is designed to protect civilians in areas of armed conflict. While the Geneva Convention IV is

³⁸ History.com Editors, GENEVA CONVENTION HISTORY.COM (2017), <https://www.history.com/topics/world-war-ii/geneva-convention> (last visited Mar 28, 2022).

³⁹ Thomas Murphy, *Sanctions and Enforcement of the Humanitarian Law of the Four Geneva Conventions of 1949 and Geneva Protocol I of 1977*, 103 MILITARY LAW REVIEW 3–77 (1984).

⁴⁰ THE GENEVA CONVENTIONS OF 1949 AND THEIR ADDITIONAL PROTOCOLS (2014).

⁴¹ International Committee of the Red Cross, TREATIES, STATES PARTIES AND COMMENTARIES INTERNATIONAL COMMITTEE OF THE RED CROSS DATABASES (2022), <https://ihl-databases.icrc.org/ihl/COM/380-600056?OpenDocument#:~:text=278%5D%20Article%2049%20is%20derived,experts%20who%20met%20in%201947.> (last visited Mar 28, 2022).

often lauded for its specificity of legal obligations, it is also generated more controversy than Geneva Convention III.⁴² Despite the wide-ranging and comprehensive protection under Geneva Convention IV, there are still specific uncertainties. The text of Geneva Convention IV states that protections within it do not extend to persons already covered by one of the previous three conventions. Thus, unclarity remains regarding whether unprivileged belligerents or unlawful combatants who otherwise fulfill the criteria to be afforded protection are entitled to such protection if they fall under the power of the opposing state.⁴³

Like a substantial portion of Geneva Convention IV, Article 49 allocates duties to those occupying territories already in an advantageous position.⁴⁴ The language of Geneva Convention IV seeks to place negative duties on countries not to commit specific harms. In doing so, Geneva Convention IV seeks to afford certain protections to those in a vulnerable position within armed conflict. Article 49, a key part of this essay, speaks to the rights of citizens in occupied territories, which includes the prohibition of forcible transfers or evacuations. It also indicates that the occupying territory cannot deploy its civilian people into the occupied land.

Similar to the entire Geneva Conventions, the method of enforcement of this Article 49 is generally unclear. While many countries may possess a motivation to adhere to the laws, this

⁴² Jelena Pejic, *THE OTHER SIDE OF CIVILIAN PROTECTION: THE 1949 FOURTH GENEVA CONVENTION*, ARTICLES OF WAR, <https://lieber.westpoint.edu/other-side-civilian-protection-fourth-geneva-convention/> (last visited Mar 28, 2022).

⁴³ *Id.*

⁴⁴ THE GENEVA CONVENTIONS OF 1949 AND THEIR ADDITIONAL PROTOCOLS (2014), <https://www.icrc.org/en/document/geneva-conventions-1949-additional-protocols> (last visited Mar 28, 2022).

article provides little extrinsic motivation.⁴⁵ The Geneva Conventions encourage adherence to the rules between belligerent entities for each state's reciprocal, individual protection.⁴⁶

HISTORY OF MOROCCO-WESTERN SAHARA AND ISRAEL-PALESTINE CONFLICTS

Morocco and Western Sahara share a rich and complicated history. Located on the western coast of Northern Africa, Western Sahara is presently occupied by Morocco. Despite having controlled territories of Western Sahara for decades, Morocco recognizes its land hold is an occupation of Western Sahara. The Sahrawi people are the native inhabitants of the Western Sahara land. As an overview of the most recent history, in 1957, the land was claimed by Morocco; however, Spanish troops who previously occupied the land were victorious in repelling the Moroccan forces.⁴⁷ Then, newly independent Mauritania claimed the land in 1960 as well. The consistent disagreement, fighting and colonization of the land awakened anti-setlist sentiments throughout the indigenous Sahrawi people. In Spanish Sahara, a guerilla insurgency of the Sahrawi people gained traction in 1970. This group referred to itself as the Polisario Front Liberation of Saguia el-Hamra and Río de Oro, or simply, the "Polisario Front."⁴⁸ By 1975, Spain largely withdrew from the area except for several independent Spanish-controlled towns that still exist today. Morocco and Mauritania continued to pressure Spain to partition the land despite a ruling from the World Court indicating only tenuous claims to land.⁴⁹ Despite the World Court's ruling, Spain intervened and allocated the northern two-thirds of the land to

⁴⁵ MATTHEW EVANGELISTA & NINA TANNENWALD, DO THE GENEVA CONVENTIONS MATTER? (2017).

⁴⁶ Thomas Murphy, *Sanctions and Enforcement of the Humanitarian Law of the Four Geneva Conventions of 1949 and Geneva Protocol I of 1977*, 103 *Military Law Review* 3–77 (1984).

⁴⁷ Houda Chograni, *The Polisario Front, Morocco, and the Western Sahara Conflict* Arab Center Washington DC (2022), <https://arabcenterdc.org/resource/the-polisario-front-morocco-and-the-western-sahara-conflict/> (last visited Mar 28, 2022).

⁴⁸ *Id.*

⁴⁹ *Western Sahara*, Advisory Opinion 1975 I.C.J. 12 (Oct. 16)

Morocco and the southern one-third to Mauritania.⁵⁰ Continued efforts by the Polisario Front in the Mauritania-controlled land resulted in a peace agreement and Mauritania exiting the scene. Morocco then annexed Mauritania's previous portion of land. Following the annexation, a United Nations peace agreement finalized in 1991 resulted in a cease-fire and an attempted referendum for the Sahrawi people to vote on whether they wanted an independent Western Sahara governed by the Polisario Front. Morocco continued to expand during this time throughout the land and rejected the opportunity of a referendum for Western Sahara independence. Many Sahrawis relocated to refugee camps in neighboring Algeria.⁵¹

In 2020, the Polisario Front obstructed a key trade route between Morocco and Mauritania to compel change from the status quo. In response, Morocco launched a military operation to break through the blockade and affirmed that it would no longer abide by the ceasefire agreement.⁵² In late 2020, the United States recognized Morocco's sovereignty over the disputed territory in Western Sahara in exchange for Morocco's normalization of its relationship with Israel. This strategic trade had implications for Morocco and the Polisario Front representing the "Sahrawi Arab Democratic Republic" in Western Sahara. Despite the multiple attempts by the United Nations to broker the situation, the United States' recognition of Morocco's position allows it to legitimize its claims further.⁵³

Another pair of nations that share geopolitical history and conflict are the states of Israel and Palestine. Israel and Palestine share a history pre-dating many textbooks. However, as a

⁵⁰ The Editors of Encyclopaedia Britannica, Western Sahara Encyclopaedia Britannica (2021), <https://www.britannica.com/place/Western-Sahara> (last visited Mar 28, 2022).

⁵¹ *Id.*

⁵² *Id.*

⁵³ Intissar Fakir, What's next for the Western Sahara Conflict? Lawfare (2020), <https://www.lawfareblog.com/whats-next-western-sahara-conflict> (last visited Mar 28, 2022).

reasonable starting point, a common historical starting point for the Israeli-Palestinian conflict began around 1947 when the United Nations adopted the “Partition Plan,” which was designed to divide the British Mandate of Palestine into Arab and Jewish states.⁵⁴ The first Arab-Israeli war broke out just after the state was partitioned. After that initial war, the land was divided into three parts: Israel, West Bank and Gaza Strip. Responding to Egypt’s support for Israel’s immediate surrounding countries, including Syria and Jordan, Israel preemptively attacked Egyptian and Syrian air forces, starting the Six-Day War.⁵⁵ As a result of the war, Israel gained control over the Sinai Peninsula and Gaza Strip from Egypt, the West Bank and East Jerusalem from Jordan and the Golan Heights from Syria. According to B’Tselem, the Israeli Information Center for Human Rights in Occupied Territories, Israel unlawfully occupied and annexed East Jerusalem. Once Israel occupied the West Bank and the Gaza Strip, Israel annexed parts of the West Bank into the municipal boundaries of Jerusalem.⁵⁶ After continued attacks between several surrounding countries, Egypt and Israel signed the Camp David Accords in 1979 to end the long conflict between Egypt and Israel. Despite improving relations in the Middle Eastern and African regions, the situation regarding Palestine’s self-determination continued to remain unclear.⁵⁷ In many ways, this mimics how Morocco had improved relations with surrounding

⁵⁴ The Editors of Encyclopaedia Britannica , Arab-Israeli wars Encyclopaedia Britannica (2021), <https://www.britannica.com/event/Arab-Israeli-wars> (last visited Mar 28, 2022).

⁵⁵ *Id.*

⁵⁶ East Jerusalem, B'Tselem (2019), <https://www.btselem.org/jerusalem> (last visited Mar 28, 2022).

⁵⁷ History.com Editors, Camp David Accords History.com (2019), <https://www.history.com/topics/middle-east/camp-david-accords> (last visited Mar 28, 2022).

countries, including its collaborative efforts with Spain and Mauritania. Still, all the while, the self-determination of the Sahrawi people remained a question.⁵⁸

In 1987, Palestinians in the West Bank and Gaza Strip rose against Israel's governance in what is referred to as the "First Intifada." After the first Intifada, like in Morocco and Western Sahara, peace negotiations resulted in an agreement between Israel and Palestine called Oslo I & II Accords.⁵⁹ In 2000, the Second Intifada was launched and lasted into 2005. Against the recommendation of the International Criminal Court and International Court of Justice, Israel began to construct a barrier wall near the West Bank. In 2013, the United States attempted to enter the scene to revive the peace process; however, attempts to broker peace were interrupted when the Palestinian government formed a united government with the rival faction Hamas.⁶⁰ In 2014, clashes between the Israeli government and Hamas incited conflict and intensified quickly. After continued waves of violence in 2015, the Palestinian president announced that Palestine would no longer be restricted by the boundaries negotiated in the Oslo Accords.⁶¹ This is similar to when the United Nations entered Morocco and Western Sahara to form a cease-fire in 1991. However, the peace negotiations were called off once the occupied territories sought to change the status quo of occupation. Although in Morocco, it was technically the Moroccan government who publicly stated they would not abide by the ceasefire, the Sahrawi people took action to

⁵⁸ Israeli-palestinian conflict | global conflict tracker, Global Conflict Tracker (2022), <https://www.cfr.org/global-conflict-tracker/conflict/israeli-palestinian-conflict> (last visited Mar 28, 2022).

⁵⁹ The Editors of Encyclopaedia Britannica, Arab-Israeli wars Encyclopaedia Britannica (2021), <https://www.britannica.com/event/Arab-Israeli-wars> (last visited Mar 28, 2022).

⁶⁰ *Id.*

⁶¹ Israeli-palestinian conflict | global conflict tracker, Global Conflict Tracker (2022), <https://www.cfr.org/global-conflict-tracker/conflict/israeli-palestinian-conflict> (last visited Mar 28, 2022).

prevent aquatic travel to frustrate the occupying power and ignite a resurgence of discontent with their presence.

Israel sharply differs from Morocco in how the state views itself as an occupying territory. While “occupied” refers to a term of art and legal status in international law and the occupied territories, according to sources such as the Institute for Middle Eastern Understanding, these occupied territories are typically referred to as the West Bank, East Jerusalem, Gaza Strip and Golan Heights. Controversially, some Israeli diplomats reject the notion that these areas are occupied and refer to them as “administered,” although international law has no such status.⁶² How Israel understands its position is crucial because it affects which parts of the Geneva Convention Israel feels it must abide by. The protection mechanism for many laws of war places the duty on the occupying territory rather than allocating rights to those in occupied places.⁶³ How Israel views itself determines the duties it may be responsible for under international law and, consequently, the protection of many vulnerable people. According to most international scholars, despite the removal of settlers, the Gaza Strip remains occupied. To measure occupation, international law tends to look at the amount of control an entity has. As Israel controls the borders, coast and airspace of the Gaza Strip, it is considered under Israeli control by many international and non-governmental bodies.⁶⁴

⁶² What are the Occupied Territories?, Institute for Middle East Understanding (2005), [https://imeu.org/article/what-are-the-occupied-territories#:~:text=The%20Occupied%20Territories%20are%20the,the%20\(Syrian\)%20Golan%20Heights.](https://imeu.org/article/what-are-the-occupied-territories#:~:text=The%20Occupied%20Territories%20are%20the,the%20(Syrian)%20Golan%20Heights.) (last visited Mar 28, 2022).

⁶³ Bureau of Democracy, Human Rights, and Labor, ISRAEL 2016 INTERNATIONAL RELIGIOUS FREEDOM REPORT (2016).

⁶⁴ What are the Occupied Territories?, Institute for Middle East Understanding (2005), [https://imeu.org/article/what-are-the-occupied-territories#:~:text=The%20Occupied%20Territories%20are%20the,the%20\(Syrian\)%20Golan%20Heights.](https://imeu.org/article/what-are-the-occupied-territories#:~:text=The%20Occupied%20Territories%20are%20the,the%20(Syrian)%20Golan%20Heights.) (last visited Mar 28, 2022).

The consistent reapportionment of land, over time, resulted in many alleged violations of international humanitarian law and Geneva Conventions in both conflicts. The following sections further describe, expand, and analyze the differences in claims of such violations.

COMPARATIVE VIOLATIONS OF GENEVA CONVENTION IV

Although both countries committed similar violations, Israel was accused of Article 49 violations, and Morocco has not. When evaluating the histories of Morocco and Israel, they are two countries that are noticeably located on different continents, but their historical conflict is strikingly similar. In both the Morocco-Western Sahara and Israel-Palestine conflict, the states experienced (1) armed conflict, (2) transfer of individuals, and (3) creeping annexation, fulfilling violations of Geneva Convention IV, Article 49.⁶⁵

The specific point of the Article 49 violation is generally said to have occurred during the invasion of 1976. The Spanish pulled out of Western Sahara; however, members of the Yema'a (*I.e.*, General Assembly of Spanish Sahara) remained in the territory along with Moroccan military personnel and civilians.⁶⁶ The Moroccan king then held a vote to partition and annex Western Sahara. The Polisario Front declared Western Sahara's independence later that same day, which was met with an ongoing war that would last years.⁶⁷ This series of interactions leading to war demonstrated the continuation of armed conflict in the occupied territory.

Since the Moroccan annexation, there has been a continued pattern of "Moroccanization" within Western Sahara.⁶⁸ This included many public policy efforts by the Moroccan government,

⁶⁵ Convention (IV) relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287.

⁶⁶ Thomas M. Franck, *The stealing of the Sahara*, 70 American Journal of International Law 694–721 (1976).

⁶⁷ Dana Brusca, *Unpopular population transfers: Defining violations of and remedies under geneva convention article 49(6)*, SSRN Electronic Journal (2010).

⁶⁸ Thomas M. Franck, *The stealing of the Sahara*, 70 American Journal of International Law 694–721 (1976).

including but not limited to building roads, airports, harbors, roads, electricity plants, and other forms of basic infrastructure. The salaries to work at government facilities in the occupied territories were up to twice that to work in Morocco to encourage migration. Based upon the continued encouragement of migration through other provisions such as low-cost housing and commodities like gas and food, the new infrastructure was intended to benefit Moroccans transferring into the Western Saharan-occupied territory. Moroccans continued to move into Western Sahara as many native Sahrawis fled due to patterned violence.⁶⁹ The transfer of individuals combined with discriminatory violence against Sahrawis ultimately led to a creeping annexation of Western Sahara dominated by Moroccan authority.

The specific point of the Article 49 violation looks similar to the case of Israel-Palestine. Scholars often indicate that Israel committed a violation when establishing settlements in the West Bank and Eastern Jerusalem.⁷⁰ According to a Human Rights Watch report and various international scholars, Israel's violation of Article 49 occurred at several points in its history, most notably during its unlawful annexation of the West Bank into East Jerusalem in 1967 during the Six Days War. In one example, B'Tselem also recounts the active role that the government played in promoting the settlement policy in similar ways that Morocco did.⁷¹ These settlements included the transfer of individuals, armed conflict and annexation.

⁶⁹ The Editors of Encyclopaedia Britannica, Western Sahara Encyclopaedia Britannica (2021), <https://www.britannica.com/place/Western-Sahara> (last visited Mar 28, 2022).

⁷⁰ Ayesha Kuwari, Israel's violations of international law in the Occupied Palestinian Territories Human Rights Pulse (2021), <https://www.humanrightspulse.com/mastercontentblog/israels-violations-of-international-law-in-the-occupied-palestinian-territories#:~:text=Article%2049%20of%20the%20Fourth,East%20Jerusalem%20violate%20the%20Convention.> (last visited Mar 28, 2022).

⁷¹ East Jerusalem, B'Tselem (2019), <https://www.btselem.org/jerusalem> (last visited Mar 28, 2022).

However, Israel's violations of Article 49 of Geneva Convention IV were treated extremely dissimilarly to Morocco's violations. Understanding the different international responses countries receive for similar violations is vital because it illuminates the unintentional permissibility the international community grants countries to continue their mistreatment of civilians. When the international community only penalizes some countries for their actions, this can lead to a sense of permissibility for countries that do not abide by the rules but receive no repercussions for their mistreatments.

It is largely assumed that an absence of political will protects Morocco.⁷² However, groups of international scholars and nonprofit organizations stand by the argument that Morocco's conduct in Western Sahara constitutes a violation of Article 49, and international organizations should recognize their noncompliance with the laws of war.⁷³ The sincerity of their belief was further demonstrated when several nongovernmental organizations published a report in 2015 detailing how Morocco's actions meet violations of international humanitarian law, including Geneva Convention IV, Article 49.⁷⁴ However, there has never been widespread attention or support for the violations, resulting in a global community outcry. While such publication adds recognition to the alleged violations by Morocco, other similarly situated countries, like Israel, received more formal action.

⁷² Relaunching negotiations over Western Sahara, Crisis Group (2021), <https://www.crisisgroup.org/middle-east-north-africa/north-africa/western-sahara/227-relaunching-negotiations-over-western-sahara> (last visited Mar 28, 2022).

⁷³ Eugene Kontorovich, *Unsettled: A global study of settlements in Occupied Territories*, 9 *Journal of Legal Analysis* 285–350 (2017).

⁷⁴ Robert F. Kennedy Human Rights et al., Report on the Kingdom of Morocco's Violations of the International Covenant on Economic Social and Cultural Rights in the Western Sahara (2015), https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/MAR/INT_CESCR_CSS_MAR_21582_E.pdf (last visited Mar 28, 2022).

The international community stepped in several times to attempt to regulate Morocco's action and allow the Sahrawi Arab Democratic Republic the opportunity for self-determination. The mediations did not result in rules both parties would abide by, or planned referendums were ruined through meddled political procedures. The United Nations specifically played an active role in the Morocco-Western Sahara conflict. It entered what was an endlessly fraught situation by interjecting itself and attempting to provide solutions and peace agreements.⁷⁵ The political context of Morocco and Western Sahara resulted in an over-dependence of the disempowered countries on international bodies due to the non-compliance of occupying powers with international humanitarian law.

Regardless of attempted mediation, groups of international scholars still uphold that there is substantial evidence to demonstrate that Morocco has violated Geneva Convention IV, Article 49. However, as Morocco is not a member of the International Criminal Court and with the United States' backing on its territorial claim, it is unlikely that tension will deescalate, although the United Nations expects to continue its involvement.⁷⁶ Several scholars and non-governmental organizations recommend a re-engagement to solve the issue. However, whether such actions would garner meaningful results is heavily debated, especially in light of the current structure of international law.⁷⁷

⁷⁵ Anna Theofilopoulou, *The United Nations and Western Sahara: A Never-ending Affair*, UNITED STATES INSTITUTE OF PEACE (2006), <https://www.usip.org/publications/2006/07/united-nations-and-western-sahara-never-ending-affair> (last visited May 8, 2022).

⁷⁶ Jillian Kestler-D'Amours, US RECOGNISED MOROCCO'S CLAIM TO WESTERN SAHARA. NOW WHAT? POLITICS NEWS | AL JAZEERA (2020), <https://www.aljazeera.com/news/2020/12/11/us-recognised-moroccos-claim-to-western-sahara-now-what> (last visited May 8, 2022).

⁷⁷ Time for international re-engagement in Western Sahara, INTERNATIONAL CRISIS GROUP (2021), <https://www.crisisgroup.org/middle-east-north-africa/north-africa/western-sahara/b82-time-international-re-engagement-western-sahara> (last visited May 8, 2022).

Unlike Morocco, the international community has widespread support and agreement that Israel violated Geneva Convention IV, Article 49, through its population transfers and settlement into East Jerusalem. To add weight to the violation of the Geneva Convention IV, Article 49, several other international organizations and entities supported the claim by issuing their respective publications. The International Court of Justice even issued an advisory opinion indicating Israel's actions were in violation of Geneva Convention IV, Article 49 and that Israel should discontinue transferring settlers and materially changing the geopolitics of the area.⁷⁸ Amnesty International has also produced similar publications condemning Israel's actions in the West Bank and Eastern Jerusalem.⁷⁹ In more recent activity, in 2013, the United Nations Human Rights Council reported that Israel needed to remove its settlers from the West Bank; otherwise, it could face the International Criminal Court action.⁸⁰

Notably, Israeli scholars have asserted that the violations of Article 49 are unsubstantiated in their interpretation of the law. Israeli scholars argue that Article 49 is designed to limit policies spurring "basic demographic change in the occupied territory's population structure." However, Article 49 may permit "voluntary settlement, little by little, of civilians of the occupying power in the occupied territory ... if it is neither done by the government of the

⁷⁸ ICJ advisory opinion on the legal consequences of constructing a wall in the opt - full text - question of Palestine, United Nations (2004), <https://www.un.org/unispal/document/auto-insert-178825/> (last visited Mar 28, 2022).

⁷⁹ Chapter 3: Israeli settlements and international law, Amnesty International (2021), <https://www.amnesty.org/en/latest/campaigns/2019/01/chapter-3-israeli-settlements-and-international-law/> (last visited Mar 28, 2022).

⁸⁰ Israel must withdraw all settlers or face ICC, says UN Report, THE GUARDIAN (2013), <https://www.theguardian.com/world/2013/jan/31/israel-must-withdraw-settlers-icc> (last visited May 8, 2022).

Occupying Power nor in an official manner.”⁸¹ The Human Rights Watch report rejected this notion. It held that arguments allowing for “voluntary settlement” were inconsistent with the goals of Geneva Convention IV, which serve to protect the civilian population of occupied territories from “colonization” and other policies.⁸²

Comparing the international response in Morocco and Western Sarah to Israel and Palestine, there is an apparent lack of consistency in the application and enforceability of Geneva Convention IV, Article 49. Despite having broadly similar violations, Israel was held to a higher level of accountability than Morocco. For example, upon creeping annexation, there was an outcry from high-profile non-governmental organizations and bodies, including the United Nations Human Rights Council, the International Court of Justice and various other news sources. The response that followed Israel’s unlawful transfer of land from the West Bank into East Jerusalem and the transfer of people into the area is starkly different from Morocco’s continued transfer of individuals into Western Sahara. While Israel received several warnings and outcries from international bodies, Morocco and Western Sahara never received such a response. For example, the international court of justice remained silent, despite the similar situations and violations of Geneva Convention IV, Article 49 in both regions.

Many confounding variables could contribute to the difference in the treatment; however, that will likely be the case when comparing two instances of armed conflict. What supersedes the confounding variables is the two clear instances of violations of Geneva Convention IV, Article

⁸¹ Tristan Ferraro, *Occupation and Other Forms of Administration of Foreign Territory* (2012), <https://www.icrc.org/en/doc/assets/files/publications/icrc-002-4094.pdf> (last visited Mar 28, 2022).

⁸² Center of the storm: A case study of human rights abuses in Hebron district, Human Rights Watch (2001), <https://www.hrw.org/report/2001/04/01/center-storm-case-study-human-rights-abuses-hebron-district#> (last visited Mar 28, 2022).

49, but the different treatment of such violations. The comparative case study between Morocco-Western Sahara and Israel-Palestine demonstrates that in non-compliance with international humanitarian law, one helpful tool is the condemnation from the international community and requests for the state's accountability, rather than responding with paternalism. At the same time, media may have been helpful in the instance of Israel and Palestine; whether the international community can sustainably police violations of international humanitarian law cannot be assured. The following section attempts to understand better how the law contributes to enabling different standards and how the rules may be re-envisioned to encourage more consistent law enforcement across the globe.

POTENTIAL REMEDIES AND ALTERNATIVES

One of the most significant issues remains that there is little consistent enforcement of international humanitarian law, as demonstrated in the different treatment of the Morocco-Western Sahara and Israel-Palestine conflicts despite their similar circumstances. Disparate treatment and inconsistent enforcement allow injustice to prevail and further adds ambiguity to international humanitarian law. Possible ways to remedy dissimilar treatment and enforcement of Geneva Conventions include developing response and minimum sanction matrixes, ensuring adequate healthcare and implementing health-peace initiatives, and encouraging equal media and journalism coverage in conflict areas.

One method of developing more consistent treatment of states is to establish matrixes and protocols to determine when mediation and other alternative resolution tools will be used and when the violations are so clear that sanctions are warranted. Such matrixes would be binding on the United Nations Security Council. These matrixes would be publicly published and available for any country or citizen to observe. The purpose of the matrixes would not be to function

perfectly in each scenario. Indeed, as in any conflict, unforeseen circumstances may impact the efficacy of such sanctions. Still, these matrixes will serve the purpose of promoting equal treatment of similar cases. For example, even if a non-United Nations member state continues business with a country that has received economic or trade sanctions from the Security Council, the rest of the member states are still aware that the government is currently in violation of the law.

These matrixes would also indicate the instances in which alternative dispute resolutions would be available and instances in which mandatory minimum sanctions were required. Furthermore, it could detail the timelines needed to enact de-escalatory measures and graduated sanctions for continued minor or partial violations of law. For example, suppose a state like Morocco was to commit violations of the Geneva Conventions, such as transferring civilians into Saharawi territory for the purpose of eventual annexation. In that case, the United Nations Security Council could impose a mandatory minimum sanction of public condemnation of Morocco's actions as an agreed-upon first response. Using a matrix and responding to countries with similar violations in a similar way also reduces the risk of bias and ensures that parties, such as the United Nations, can maintain their position as a neutral governing body for peace. As a potential follow-up, if Morocco did not cease or provide evidence of withdrawing from the territory within six months, then the sanctions would increase to possibly include monetary fines, which could be used for funding nongovernmental organizations such as the Red Cross.

Developing such a tool will also serve as a mechanism to deter violations. When there are specific and clear minimum sanctions, country leaders may be less likely to commit violations since there will be actual consequences they are bound to. Of course, the matrix may be subverted in the presence of clear and convincing evidence that the minimum recommended

sanction is disproportionate to the violations committed. A matrix is also a valuable tool because the United Nations is also held accountable to minimum sanctions to ensure that it, and other well-meaning nongovernmental organizations, do not engage in discriminatory paternalism.

Alternative dispute resolutions, such as mediations, could also have guidelines and requirements to ensure that they are the most useful tool available. A natural element of political leaders is that they are human and not impervious to human qualities, such as bias. Offering alternative dispute resolution in the face of clear violations of the rule could be attributed to a notion that the country did not intend to violate the law but is relatively unfamiliar with the functions of the law and treaties they have agreed to, which is unlikely. Another potential reason for offering alternative dispute resolution is to attempt to insert international governing bodies which hold the goal of peace into the process and guide the arrival of a solution. To avoid overuse or inappropriate use of alternative dispute resolution, this could become an option only when agreed upon by a three-fourths majority of Security Council members and if agreed upon by the non-belligerent state. For a more holistic approach, perhaps after a year of continued conflict and violations of international humanitarian law, minimum sanctions must be imposed before offering alternative dispute resolution to incentivize an end to the conflict.

A concern to the use of matrixes, guidelines or requirements for sanctions and alternative dispute resolutions if binding upon the United Nations Security Council is whether security council members would be able to agree that countries' violations have risen to the level that required the response of minimum sanctions. If the permanent five members cannot come to a resolution, General Assembly Resolution 377 (V) will go into effect.⁸³ This resolution states that if the permanent five members of the Security Council cannot agree in any case where there

⁸³ G.A. Res. 377, U.N. Doc. A/RES/5/377 (November 3, 1950).

appears to be a threat to peace, breach of peace or act of aggression, the General Assembly shall consider the matter immediately to make appropriate recommendations to members for collective measures.⁸⁴ Effectively, in instances where the General Assembly felt that there was an act of aggression that warranted the use of minimum sanctions against a state and the Security Council did not act, the General Assembly can consider action without the discretion of the Security Council. From the consideration of imposing minimum sanctions, there are also potential remedies that involve a holistic approach to providing aid for a country.

An ancillary and often overlooked method of promoting enforcement of international humanitarian law is to help countries ensure that their fundamental human rights are being met even in the presence of international humanitarian law violations. Providing basic domestic infrastructure, such as healthcare, can help a country to stabilize itself. Scholarship indicates that health investments may contribute to state-building and, potentially, to enhanced national and local legitimacy.⁸⁵ The exact degree to which healthcare contributes to these factors is unclear; however, it plays a vital role in raising up non-belligerent states to withstand violations of international humanitarian law that were not prevented.⁸⁶

Increasing healthcare access through health-peace initiatives in warring countries that have suffered violations of international humanitarian law may allow the countries or territories a sense of stability and access to resources required to strategize a response to the belligerent country. Such healthcare provisions could include international training of native healthcare professionals and equipping organizations, such as the International Committee of Red Cross, to

⁸⁴ G.A. Res. 377, U.N. Doc. A/RES/5/377 (November 3, 1950).

⁸⁵ Rohini J. Haar & Leonard S. Rubenstein, *Health in fragile and post-conflict states: A review of current understanding and challenges ahead*, 28 *MEDICINE, CONFLICT AND SURVIVAL* 289–316 (2012).

⁸⁶ *Id.*

provide healthcare and record relevant violations of international humanitarian law. In the instance of an occupying territory, it is essential to have adequate healthcare because of the health-peace initiatives they can provide. Knowing the positive impact healthcare can have on a country, it is vital that the International Committee of the Red Cross, healthcare training programs and the Security Council work cooperatively to identify areas of concern and ensure that they are supplied with the requisite healthcare.

A clear lesson when comparing the violations of Israel and Morocco is that media coverage has an apparent effect on the treatment of the violations. Media coverage of specific conflicts allows for more public outcry and pressure for action. The importance of media in garnering support and adequate information for civilians has been especially present since the Vietnam War. Although the length of the war and political consensus against it eventually resulted in widespread skepticism and mistrust of the war efforts, it continued to play a vital role in future conflicts.⁸⁷ During the First Gulf War, when media coverage began to regain traction, Colin Powell, the Chairman of the Joint Chiefs of Staff, stated that the role of the media and military should be intertwined. He said, "media coverage and [press] pool support must be planned simultaneously with operational plans and should address all aspects of operational activity, including direct combat, medical, prisoner of war, refugee, equipment repair, refueling and rearming, civic action, and stabilization activities."⁸⁸ This demonstrates the integral role of media in armed conflict. Ensuring equal access to such media coverage in the current time is an essential aspect of ensuring there is consistent treatment of international humanitarian law violations.

⁸⁷ Elizabeth Levin, *Journalists as a Protected Category: A New Status for the Media in International Humanitarian Law*, 17 UCLA J. INT'L L. FOREIGN AFF. 215 (2013).

⁸⁸ *Id.*

While it is a critical best practice to allow journalists to practice without interference, it is also essential for decision-making bodies to have access to media coverage to be fully informed of the urgency and reality of situations. Increasing media coverage of specific conflicts in areas that may not receive standard media attention could potentially serve as a critical piece of information when determining sanctions and law violations. These journalists could be deployed with healthcare organizations to mitigate logistical inefficiencies. Upon return, these journalists would provide media reports that would be minimally admitted to the case's electronic filing cabinet with optional publication. Depending on how the case continues, these documents would be available for review when determining sanctions, criminal court hearings, or the possibility of alternative dispute resolution. By having better access to original sources of information documenting the country's state, decision-makers will better identify and respond to similar situations consistently.

When facing ongoing concerns of enforcement of international humanitarian law, especially in instances pertaining to Geneva Convention IV that involve an occupying matter, considering multiple, multi-pronged approaches may be appropriate. Considering one possible solution alone may not do enough to encourage more consistent enforcement of laws. When evaluating ways to improve the enforcement of international humanitarian law and especially the Geneva Conventions, international entities may consider implementing and advocating for response matrixes, adequate healthcare and health-peace initiatives, as well as equal media and journalism coverage in areas of conflict.

CONCLUSION

The above arguments attempt to identify the dissimilar treatment and enforcement of the Geneva Convention IV in the Israel-Palestine and Morocco-Western Sahara conflict cases. When

evaluating the different responses from the United Nations Security Council and international entities regarding the two similar cases, there is an apparent disparity in the treatment and application of international humanitarian law. Applying and upholding international humanitarian law in some circumstances and not others may create an enhanced risk of bias and allows crimes against civilians to continue.

This paper addresses the similarity between the violations committed by Morocco and Israel, which included armed conflict, transfer of individuals, and creeping annexation, fulfilling violations of Geneva Convention IV, Article 49.⁸⁹ However, similar in nature, these violations received dissimilar treatment from international bodies. Notably, Israel's violations received significant media coverage as compared to Morocco. Still, Morocco's violations received attention from non-governmental organizations and international scholars calling for intervention due to the continued violations of the laws of war.⁹⁰ Despite early attempts at mediation, ultimately, the conflict and occupation of Western Sahara continued without meaningful intervention from international governing bodies.⁹¹

When considering ways to remedy the unequal enforcement of international humanitarian law, potential solutions include multi-pronged approaches that feature the benefits of response matrixes, adequate healthcare and health-peace initiatives, as well as equal media and journalism coverage in areas of conflict. Ideally, these measures may be adopted by entities such as the

⁸⁹ Convention (IV) relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287.

⁹⁰ Robert F. Kennedy Human Rights et al., Report on the Kingdom of Morocco's Violations of the International Covenant on Economic Social and Cultural Rights in the Western Sahara (2015), https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/MAR/INT_CESCR_CSS_MAR_21582_E.pdf (last visited Mar 28, 2022).

⁹¹ Intissar Fakir, What's next for the Western Sahara Conflict? Lawfare (2020), <https://www.lawfareblog.com/whats-next-western-sahara-conflict> (last visited Mar 28, 2022).

United Nations Security Council, which has jurisdiction over countries that have ratified the Rome Treaty. However, as not all countries have ratified the Rome Treaty, international organizations and local peace advocates may be able to promote equal enforcement of international humanitarian law by enacting health-peace initiatives and fair press coverage policies alongside the Security Council.

A critical aspect of enforcement is awareness. This paper demonstrates one example of an inconsistent response to Geneva Convention IV, Article 49 violations. However, there are likely many more that exist. Encouraging regular audits of cases and informal dispute resolutions may allow international bodies to note differences in their treatment of like cases. Becoming aware and accountable for the potential biases and unequal application of international humanitarian law is one of the first steps in finding long-term resolutions.

The instances of conflict in Israel-Palestine and Morocco-Western Sahara are two cases in a larger set of cases that undergo evaluation by international bodies that promote peace. Looking forward to implementing remedies and equal enforcement of international humanitarian law, there must be more conclusive and data-driven research surrounding how healthcare and health-peace initiatives can influence the enforcement of international law. While this area of scholarship is emerging, more objective research, as opposed to anecdotal accounts, will likely be instrumental in advocating for the development and execution of healthcare programs. Although each case of conflict is likely to have unique circumstances surrounding it, which will call for tailored approaches, in instances of violations of international humanitarian law, calling for equality and consistency is a significant step in achieving an international sense of justice.