

RESOLVING THE HUMANITARIAN EQUATION: HOW TO RECONCILE THE TENSIONS BETWEEN INTERNATIONAL CRIMINAL LAW, HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW?

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Abstract: International law is increasingly focusing on criminal avenues to deal with human rights abuses in wartime and post-conflict societies. This transforms the traditional conception of human rights law, as a shield against public abuses, into a sword aiming at the penalisation of the offenders. In addition, it leads to a collapse of the boundaries between international human rights, humanitarian and criminal law, for gross violations of individual rights. This article analyses the impact of the development of international criminal law on the protection of human rights and humanitarian norms, as well as the conflicts and the dilemma that emerge from the superposition of the three paradigms in front of international courts bound by the difficultly reconcilable demands that arise from distinct sets of undertakings. Finally, it proposes to resolve the ensuing tensions by a proper articulation and reconciliation of the principles underlying the three disciplines.

Keywords: international human rights law, international humanitarian law, international criminal law, international responsibility.