## Human Rights and Humanitarian Norms as Customary Law

THEODOR MERON

ems.

## Table of Contents

Abbreviations	Хi
Introduction	1
I. Humanitarian Instruments as Customary Law	3
I. The Importance of a Norm's Customary Character II. Reservations to Humanitarian and Human Rights	3
Instruments and Customary Law	10
III. The Nicaragua Judgment	25
IV. The Antecedents to Nicaragua	37
V. Geneva Conventions: Assessing Practice, Opinio Juris,	
and Violations	41
VI. Additional Protocols of 1977	62
A. Protocol I	62
B. Protocol II	71
C. Observations on Both Protocols	74
II. Human Rights Instruments and Customary Law	79
I. The Quest for Universality	79
II. The International Court of Justice and Customary Human Rights	106
III. Customary Human Rights in Selected National Courts	114
III. Responsibility of States for Violations of Human	
Rights and Humanitarian Norms	136
I. Mapping Recourse Options	136
II. Acts of State, Imputability, Private Acts	155
III. Exhaustion of Local Remedies	171
IV. Obligations of Means and Obligations of Result	182
V. Obligations Erga Omnes	188
VI. Judicial Remedies: Is Damage a Condition for State	
Responsibility?	201
VII. Violations as International Crimes and International	
Delicts	208
VIII. State of Necessity and Derogations	215
. TT-: T Or - 1444001-7 WILL TAY - DOUGLOSS	

v				

## Contents

IX. Responsibility for Violations of International		
Humanitarian Law: Special Problems	222	
X. The Relationship between Remedies in Human Rights		
Treaties and other Remedies	229	
XI. Countermeasures, Non-Judicial Remedies	233	
Concluding Remarks		
Index	249	

## Abbreviations

AJIL	American Journal of International Law
ASIL	American Society of International Law
CSCE	Conference on Security and Co-operation in
	Europe
ECOSOC	Economic and Social Council
ESC	Economic and Social Council
ESCOR	Economic and Social Council Official Records
GAOR	General Assembly Official Records
IACHR	Inter-American Commission on Human Rights
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
ILC	International Law Commission
ILM	International Legal Materials
ILO	International Labour Organisation
NGO	Non-governmental organization
OAS	Organisation of American States
OEA	Organizacion de los Estados Americanos
TIAS	Treaties and Other International Acts Series
TS	Treaty Series
UNTS	United Nations Treaty Series