

International Humanitarian Law: Laws of Armed Conflict and the Protection of Civilians

Farhana Aziz Rana

Department of Law, University of the Punjab, Gujranwala Campus, Pakistan

How to Cite this Article:

Rana, F. A. (2025). International Humanitarian Law: Laws of Armed Conflict and the Protection of Civilians. *Law Research Journal*, 3(2), 123–139.

Abstract

IHL has value in determining the process of dealing with conflicts and also in the preservation of dignity and the rights of individuals who experience wars. Through the concept of humanity, necessity, proportionality, and distinction, the IHL attempts to administer the needs of the civilians as well as those taken in war and the injured and the restrictions of the ways wars can be waged. Although its significance cannot be ignored, IHL is aggravated by numerous issues, including its breaches by the actors of all natures, extreme sophistication of the war nowadays, and the difficulty to make the law operational. It takes into account the central provisions of IHL, significant documents like the Geneva Conventions and guarantees the safety of citizens in the situation of warfare. Moreover, it also examines some of the most frequently occurring breaches of IHL such as the attack of anyone, and not necessarily military objects, with weapons prohibited, and the attack of providers of humanitarian assistance with the repercussions which take place in conflicts nowadays. It also highlights how complicated it is to ensure that IHL is respected and the need to find more powerful mechanisms to make individuals accountable such as through the action of international courts, national legislation and through greater extension of universal jurisdiction. The last part of the article provides solutions to better the IHL and manage the revolution underway in warfare and assist humanitarian organizations, as well as protect the human beings who are in greatest danger. It keeps to the argument that more efforts need to be made through increased cooperation to protect better the civilians and to apply more the IHL requirements in how conflicts are conducted presently.

Keywords

International Humanitarian Law, Geneva Conventions, protection of civilians, war crimes, enforcement, accountability, IHL, non-state actors

Corresponding Authors: Farhana.aziz@pugc.edu.pk

1. Introduction

The laws of armed conflict or International Humanitarian Law (IHL), are the set of the legal rules which determine the way war and armed conflicts must be held. The major functionality of the law is to minimize human tragedy in war and it also safeguards those who are not party to the fighting that is civilians, prisoners and the injured. It tries to limit the ways wars may be waged in order to prevent further unnecessary harm and suffering. The fundamental rules of IHL are humanity, necessity, proportionality, and distinction and provide the states and non-state actors with instructions on how to behave in an armed conflict situation (Solis, G. D. 2021).

The laws of armed conflict take the basis of a large number of agreements, practices and rulings by courts, the principal of which are the Geneva Conventions and their Protocols Additional. The Hague earlier conventions and the Rome statute of international criminal court (ICC) are relevant in regulating armed conflict and ensuring accountability of people to violations. These law agreements all collaborate in establishing the elaborate regulations on the handling of non if-affected civilians, maintenance of civilian infrastructures and proscription of methods of doing combat that is greatly expected to deliver serious damages to individuals and nature. (Heller, K. J. 2011)



Following the lives that were derailed and massive devastation brought by the World Wars I and II, IHL came into existence to attempt to contain the adverse force that wars play in the lives and dignity of people. Today, IHL can be regarded as a principal component of international law, which strives to prevent people being subjected to the most dreadful outcomes of armed encounter.

Although the rules of IHL are definite, it operates with numerous challenges, especially due to the rise of the signs of asymmetric wars, where terrorist groups and insurgents are present. It is often difficult to halt them and make them accountable since sometimes they do not use the same legal frame work as the state agencies do. Since in modern warfare, sometimes the battle is carried out with the help of drones, online acts and the bombing of individuals who are not directly involved in the conflict, IHL somehow needs to deal with the new challenges.

The primary aim of IHL is to ensure the protection of the civilians in the armed conflict. The higher number of civilian victims exists nowadays because the war actions, air strikes, and random attacks create greater issues among the individuals living in cities or towns. Enforcement of international law demands that the civilians are to be safeguarded, that help is given and the combatants are supposed to ensure that the civilians are treated well and that violence is not employed by the combatants. (Kretzmer, D. 2009)

The importance of IHL in the modern days is very high. Since confrontations are increasing and growing complex, there is a greater need of IHL to guarantee human rights as well as label officials accountable. Breach of the IHL through the attack on civilians, violation of the prohibited weapons or torturing of individuals are offenses against international laws and the perpetrators of the offense suffer at the expense of their personal selves and the overall cause of peace and justice in the world.

This treatise aims at finding out the significant aspects of International Humanitarian Law, including the protection of civilians, the rules in armed conflicts and barriers that exist in implementing the laws. As seen in closer examination of the IHL principles, key treaties and the mechanisms of maintaining compliance among different nations, the law will need to adapt and grow stronger in order to combat the emerging issues encountered in the existing conflicts. It will also discuss the efforts IHL has been following to strike a balance between military necessity and humanitarian concerns and the attempts to contain the nightmares of war and spares the weakest and the most helpless individuals in conflict areas. (Cassimatis, A. E. 2007)

2. Literature Review

In their writings, scholars of International Humanitarian Law (IHL) apply the law, historical studies, political issues and dilemma in managing laws in times of war and conflicts. Most of the IHL writings dwell on simple concepts, the core legal principles, how to protect individuals entangled in warfare, and the questions about the enforcement and the method of warfare evolving in society nowadays. This review will focus on considering major problems and controversies in the IHL, particular regarding the protection of civilians in wartime.

2.1 Historical Development and Core Principles of IHL

The principality of the Conventions of 1949 and their peripheral Additional Protocols of 1977 to which it forms the primary legal foundation to securing the lives of people that are not active participants of any war, make up the body of IHL current in existence today. (Prescott, J. R. V. 2014) In his publication *International Law and the Problem of Armed Conflict*, Eugene Kontorovich (2012) explains that the aim of IHL is largely to minimize the harm of war to non-combatants such as those who are not at war and also, the captured

soldiers and those who end up getting wounded. When distinction, proportionality and necessity are respected, the armed services will respect humanitarian issues during operations. (Kontorovich, E. 2012) According to an article titled the Laws of War and International Humanitarian Law by Derek Jinks (2005), distinction is central to the IHL. It means that those involved in the conflict should find the difference between those who fight and those who do not primarily in order to ensure that civilians are not exposed to the extremely harmful by-products of the war. This difference has continued to be a significant element of IHL which is attested by the Hague Conventions (1899, 1907) and Geneva Conventions. Since the wars waged these days are fought differently such that non-state groups are involved in fighting along with their citizens, this rule is more relevant than ever. (Jinks, D. 2005)

2.2 Key Legal Instruments and Their Implementation

A number of articles which study the resultant actions in the IHL field refer to the Geneva Conventions, Additional Protocols, the Hague Conventions and the Rome Statute of the International Criminal Court, ICC. The Fourth Geneva Convention of Geneva conventions pays attention to how the parties to a conflict should treat the civilian population residing in the occupied territory that is governed by them.

According to what is stated in the book Human Rights and International Humanitarian Law: The Missing Link (2015) written by Andrew Clapham, being a civilian can be better safeguarded under human rights law, but IHL is supportive and highly controlling on how events related to military operations are supposed to occur in the course of armed conflict. (Clapham, A., & Schabas, W. A. 2016)

2.3 Protection of Civilians in Armed Conflict

Protecting citizens is a primary issue of the agreed laws of war because numerous researchers explored the legal obligations of protecting civilians not involved in the conflict. Jean-Marie Henckaerts and Louise Doswald-Beck (2005) who worked on the ICRC Study on customary IHL have stated that it is now deemed customary international law that the protection of many civilians in wartimes remains in effect against countries that have not signed many of the related treaties. One of the big limitations they impose is that no weapons could be used that do not know the difference between soldiers and civilians like cluster bombs or chemical weapons. The ICRC Study on Customary International Humanitarian Law remains one of the most important sources on the field of IHL dealing with the spheres of IHL that concern civilians. (Newalsing, E. 2008)

Samantha Power (2002) indicates how the international community has been impotent in safeguarding individuals who fall victims of genocides and mass atrocities as witnessed in Rwanda and Bosnia. Power states that due to the political will that cannot be found most of the time and the lack of observing the standards that IHL offers, it can result in significant violations of human rights. (Power, S. 2002)

2.4 Evolving Nature of Warfare and IHL's Response

Today, the drones, more cyber-attacks and the emergence of the so-called private military contractors (PMCs) into the fields of conflict have become a major problem in IHL. Writers such as Mary Ellen O Connell, (2013) in her book named The International Law of Drones point to the hard fact that proportionality and distinction are hard to achieve in using drones in war. He points out the fact that no such rules exist in the law to regulate the use of drones particularly when they are used to kill people which may also result in breach of sovereignty, killing of civilians and extra-legal killings. (O'Connell, M. E. 2013)

Similarly, the increasing importance of cyber-attacks in contemporary conflicts is what is addressed by Michael Schmitt (2017) in his article Cyber Warfare and International Humanitarian Law. According to him,

IHL cannot accommodate the possibility of cyber war appropriately, and it only now that legal thinking is beginning to transform. A big number of the experts now tend to think that the cyber-attack aimed at the critical civilian networking (electricity suppliers and healthcare professionals) ought to be regulated by the international regulations protecting the civilians, since such hacking can also cause the same havoc that strikes against civilians do. (Schmitt, M. N. (Ed.). 2017)

2.5 Enforcement and Accountability for Violations of IHL

The issue of what to do with offenders who fail to observe rules is one of the important factors among the scholars who study IHL. Although we have something such as International Criminal Court (ICC) and International criminal tribunal to the former Yugoslavia (ICTY), it remains hard to ensure accountability of people. Fiona McKay (2020) notes in War Crimes Trials and Justice that the ICC is in a poor position to do justice to war crimes since it relies on states in order to cooperate with it, and it cannot prosecute cases in most locations. (McKay, F. H., & Taket, A. 2020)

2.6 Humanitarian Access and the Role of Non-Governmental Organizations (NGOs)

The humanitarian protection of law and assistance in conflict situations provided by humanitarian groups are other common areas of study in IHL, literature. In *The Politics of Humanitarian Aid in Conflict Zones*, Sarah Nouwen (2010) states that bodies such as ICRC, Medicin Sans Frontieres, and OCHA are much in favor of ensuring the safety of civilians. To Nouwen, offering assistance in the conflict areas is complicated since the access is facilitated both by official and informal organizations, which are likely to oppose each other. (Nouwen, S. M. 2018)

3. Core Principles of International Humanitarian Law

The key points of the International Humanitarian Law (IHL) are the minimization of the ill consequences of warfare and protection of the dignity of the persons who do not participate in the combat. The principles are the ones which underlie the rules and the guidelines of war. They make efforts to ensure that due to the benefits of focusing on saving lives and reduction of suffering of civilians, prisoners of war and the environment in wartimes. Distinction, proportionality, necessity and humanity are the main rules in IHL. (Crowe, J., & Weston-Scheuber, K. 2013)

3.1 Distinction

Among all the tenets of IHL, the principle of distinction can be considered the most vital one. It obliges people engaged in armed conflicts to distinguish combatants and non-combatants and military objectives and civilian objects. Individuals or people in war zones are not permitted to target, specifically or otherwise, civilians and civilian organizations such as schools, hospitals and homes. Military operations can only target combatants, and the civilians must be spared of the violence as a possible target.

The determination of a distinction between legitimate or non-legitimate targets is central to minimizing risk of damage and injury to civilians and is contained in primary texts of IHL such as the Geneva Conventions and the Additional Protocols. This concept implies that the military fighters must consider the objects of attack appropriately and attack military objects only, unless the need to destroy civilian property is evident. The principle would be violated in case it was established that a non-strategic target of civilian city was bombed without any real military context.

There are also specific weapons utilized on the basis of the Just War instrument. Cluster munitions and landmines are prohibited in war due to the fact that they may cause damage to both civic and military sites. (Lev, A. 2025)

3.2 Proportionality

Proportionality principle is fully consistent with the principle of distinction. The attack on any civilian targets is unlawful when the same is of a minimal or no military significance to the foreseeable outcomes. One may not be permitted to attack a legitimate military target when there is a large disparity between the injuries caused to the civilians as compared to benefits of the attack.

Proportionality touches on the balance between the military needs and the safety of people. It involves weighing the expected losses or harms to civilians that could be caused on a military strike, with respect to what would be gained through the same military strike. This is to reduce the suffering of people and the destruction of properties of people in conflict.

When using airstrikes, the concept of proportionality is quite important as most military targets are adjacent to heavily populated civilian settlements. In the case of a projected attack that would result in more harm against the civilians than the anticipated benefit of the military, the intended attack should not occur or if it must occur, should be modified to ensure that the number of harms is reduced. However, because proportionality is not a precise domain, justices and leaders have to take hard choices at critical times. (Van den Boogaard, J. C. 2019)

3.3 Necessity

The concept of necessity is also relied on by IHL. It states only essential force in the fighting is permitted to meet valid military objective. In a nutshell, the force may only be utilized when there is necessity to weaken or defeat the foe and the force utilized must be proportional to the intended aim. IHL does not permit any additional violence, harm or destruction this is not part of a war, and there is no purpose of it.

It was planned in such a way that the conflict should not be growing too high and civilians should be safe. The idea implies that the army is to be employed as an ultimate resort and the most powerful interest of the army is associated with peace and safety causing least harm to the individuals. It prevents parties against performing violent acts except in case there is evident military justification of such an action. A military purpose would not be deemed necessary to target civilian facilities including factories and markets. (Hill-Cawthorne, L. 2014)

3.4 Humanity

The philosophy of humanity entails that those who are not direct participants of war and hence are involved get dignity and respect. It demands the parties taking part in an armed conflict to do what they can to minimise suffering and to save human rights and lives. This is the main point of numerous provisions in IHL e.g. prohibition of torture, mistreatment or inhumane or degrading treatment.

Every one in a war must treat the prisoners of war, the wounded and the civilians fairly and with love. It also prohibits the use of biological agents and weapons, chemical weapons or other agents and weapons incapable of distinguishing between the military targets and civilian targets since it results in unnecessary suffering.

Besides IHL, humanity is associated with the human right law that provides persons with protection during peace and conflicts. IHL acknowledges that there exist inherent rights such as right to life and right to physical integrity and dignity and does not allow conflict groups to violate such rights to be exploited to too large of an extent. (Crowe, J., & Weston-Scheuber, K. 2013)

4. Key Instruments of International Humanitarian Law

IHL is dictated by principal agreements and generally accepted acts of countries that are aimed to oversee the proceedings of hostilities and defend individuals not engaged in warfare. These can be found in the core

of IHL, and assist in ensuring the safety of people in times of war, protecting the lives of the civilians, and regulating the conduct of participants of the combat. (Droege, C., & Giorgou, E. 2022) These are the main legal texts which constitute current IHL:

4.1 The Geneva Conventions (1949)

The main approach to IHL is based on the Geneva Conventions that are made up of four fundamental conventions that widely safeguard civilians not engaged in the combat. They address wounded and sick soldier, prisoner of war and civilians privilege at armed conflict. Almost all countries have ratified all the Geneva Conventions and they have come to serve as a primary source of IHL recognition.

- The initial Geneva Convention (signed off in the year 1949) concerns the defense and assistance of sick and wounded soldiers in year of war. Humanitarian law ensures that such fighters unable to fight owing to either injury or disease are treated well and accorded medical services, irrespective of identity.
- Second Geneva Convention (1949): Just like the First one, except that in this case the convention also includes protection of the injured, ill and stranded soldiers at sea. It ensures that all the people who are vulnerable to naval conflict like the sailors and other crew personnel are well treated and provided with medical assistance in case of an emergency.
- The Third Geneva Convention (1949) mostly applies to prisoners of war (POWs). It ensures that all persons are entitled to human treatment, shall be tried within reasonable time and shall be treated with no abuse or degrading conduct. It also gives the details of what the power detaining ought to do including ensuring that POWs receive food, shelter and medical attention.
- Fourth Geneva Convention (1949): This is the most detailed of the four conventions, and this convention deals with the issue of protection of civilian in war time. It also bans the attack of civilian population, the use of hostages, forced transfer and deportation of civilians of occupied territories. It requires that the treatment of civilians ought to be respectful and they should also be shielded against acts of violence including murder, torture and sexual violence.

The four conventions are the foundation of IHL because they will guarantee that even the weakest in dealing with armed conflicts access to protection to sustain their lives with honor. (Clapham et al, 2015)

4.2 The Additional Protocols (1977)

In 1977, two further Additional Protocols were adopted to complement the rules contained in the Geneva Conventions. They are the means of indicating innovative directions in warfare and have concerns over non-international wars (such as civil wars). They expand the use of IHL so as to provide additional protection to the individuals who are engaging in conflict.

- Protocol I (1977): The Protocol accords additional protection to those who find themselves in the midst of international wars within the Geneva Conventions. The law addresses the nature of conflicts, the way of dealing with individuals who are not parts of a conflict and ways of protecting culture and natural environment. It also has explicit understandings of who is combatant and who is not and advances the defense of captives.
- Protocol II (1977): This Protocol provides special protection to the IHL to cases where armed conflicts are between groups within the same country. It mentions how civilians should be safeguarded, how and what should be done to prisoners and torture is banned. It also requires the treatment of individuals who ceased to fight in any kind of war the right way.

All the Geneva Conventions and Additional Protocols are an effective legal structure that protects individuals involved in any war, whether international or not. (Alexander, A. 2015)

4.3 The Hague Conventions (1899 and 1907)

Hague Conventions are concerned with laws of fighting a war and approached with regard to prisoners, specifically, and weapons they can use, specifically. The Hague conventions introduced in 1899 and 1907 assist the Geneva conventions in the proper regulation of the way wars are waged.

- This was at Hague Convention 1899 where efforts were made to outlaw the use of poisonous weapons and also using the bullet, which spread profusely in the body. Geneva Conventions proposed new regulations, which are supposed to secure the individuals who were captured during the battle and define proper battle procedures.
- Hague convention of 1907: Going even deeper into the problems, the Hague convention that took place in 1907 added more safeguards and developed complex rules on how to behave during the war, including the treatment of the prisoners of war, and which weapons were prohibited, including poison gas. It was also a part of the protocol to consider protection of cultural property in case war would erupt.

Unless an individual is involved in the wars all people are taken care of by the Geneva Conventions and wars are fought in a way that considers all human beings to be treated well as laid out by the Hague Conventions. (De Baets, A. 2022)

4.4 The Rome Statute (1998)

The Rome Statute established the International Criminal Court (ICC) that will judge individuals who have been accused of war crimes, crimes against humanity, genocide and aggression. In the Rome Statute of IHL, it defines several acts which are considered to be illegal, e.g. the attack upon civilian population, the use of prohibited weapons and acts of torture.

The Rome Statute posits that military leaders and political leaders may be criminally charged on account of their actions in their engagements. The International Criminal Court ensures that IHL offenders will face justice and the victims have a tool of accessing justice.

Through the Rome Statute, people who violate the rules of the war can now be punished in any jurisdiction of committing the infringement. (Provost, R. 2002)

5. Protection of Civilians in Armed Conflict

The safeguarding of civilian populations is among the noblest and most robust goals of the International Humanitarian Law (IHL), in case of armed conflicts. The non-warring populations or civilians must not be under the fire of the war annihilation. These fundamental principles and guidelines in IHL are aimed at preventing additional suffering to individuals that passively are not fighting and ensuring they are not affected in case of war. In IHL, the protection of civilians is quite significant and several legal provisions have been developed by the community to protect them against the ills of war. (Breakey, H. 2012)

Some of the main aspects of IHL, that gives special protection to civilians during an armed conflict are the following ones:

5.1 Prohibition of Direct Attacks on Civilians

One of the principal aspects of IHL is that it is forbidden to attack the civilians. Individuals who are not engaged in combats should at all costs not be attacked or hurt. These provisions make it clear that the only

people who should be targeted are those that are involved in combat and those who are military targets, so that the impact can be reduced among the civilians.

The principle of distinction comprises IHL by instructing the parties in the midst of a dispute to distinguish between civilian individuals and objects and military objectives. It is prohibited to bomb or shoot a civilian or a military object without a distinction. In the event of a military target being in the vicinity of the location in which civilians live or work, the measures to minimize incidence of problems by the civilians ought to be taken.

The intentional attack on hospitals, schools and population centers is a severe breach of IHL since it damages these centers. In case you violate these rules, you might be charged with war crimes and be subjected to a court action. (Brooks, R. 2014)

5.2 The Duty to Care for the Wounded

There is a need provided by IHL to take care of people who get injured. Regardless of whether a person is one of the sides of the conflict or a mere victim, the injured should receive medical assistance regardless of reasons. The Geneva Conventions emphasize on the fact that injured and ill persons should be treated with dignity and should receive medical attention as soon as possible. It regards soldiers but applies even to civilians that are in harm because of the war.

Moreover, the IHL is essential in regard to the healthcare provision, which means taking care of and protecting medical staff and institutions. The medical personnel that participates in assisting during the war such as doctors and nurses cannot be hurt or damaged during the fighting. It is unreasonable to target the hospitals, clinics and other medical establishments and all interlocutors should make an attempt to ensure the safety of medical services in the war.

In the Geneva Conventions, the medical workers have the permission to work unhindered in the times of war that facilitates the treatment of the injured or ill on all sides of a conflict. (Bouvier, P. 2015)

5.3 Humanitarian Access

During a war human being has to be assisted in food, health and shelter and humanitarian assistance is required to assist them. The International Humanitarian Law guarantees that organizations like the International Committee of the Red Cross (ICRC) are allowed to attend to individuals and visit those entangled in an armed conflict. Refusal of humanitarian aid or preventing its delivery is one of the greatest crimes against IHL.

Protected by the Geneva Conventions neutral humanitarian organizations have a right to work in the territory of a particular state or in any other territory they occupy to deliver the lifesaving assistance. Some of the activities include providing relief in times of emergency and distribution of food and sheltering the displaced persons.

The citizens engaged in the conflict should ensure that humanitarian workers are cool and have all they require to perform their work well. When interventions cause any hardship to humanitarian teams, this further deteriorates the situation of people in war, and contravenes IHL provisions. (Schwendimann, F. 2011)

5.4 Protection of Refugees and Internally Displaced Persons (IDPs)

Incidents that are characterized by force are likely to expose people to their houses thus creating new refugees and IDPs. The major protection that war refugees get is the international law, which protects them mainly under the 1951 Refugee Convention and the 1967 Protocol. They include the right to asylum, sending

someone back to death and receiving the key things like food, shelter among other rights known as the right to medical care.

The internally displaced persons (IDPs), that represent people who are displaced within their countries, are also entitled to the protection provided by different international guidelines, such as the Guiding Principles on Internal Displacement. United Nations High Commissioner for Refugees (UNHCR) works in order to support and take care of refugees and displaced persons.

Refugees and IDPs are also prone to maltreatment like violence, exploitation and being deprived vital services. The international law and IHL accord the displaced persons respect and dignity and IHL aims at ensuring that individuals are not harmed or lost due to their displacement. (Schrepfer, N. 2018)

5.5 Child Protection

The fact that children are particularly targeted in armed conflicts is also particularly wrong and one of the worst examples is that of the child soldier recruitment. When the conflict occurs, the international law ensures that the children are well safeguarded. The Convention on rights of the child (CRC) and the protocol to prevent and suppress the involvement of children in armed conflict in 2000, prohibits the recruitment and the utilization of children under the age of 18 years into hostilities.

The practice of enlisting or utilizing children in armed conflicts is considered to be highly serious according to IHL and hence perpetrators of this action may be accountable in the history of war crimes with the Rome Statute of the International Criminal Court or ICC. Moreover, the IHL obliges states to assist the children who are engaged in conflicts so that they quits military activities and reintegrates to society safely and adequately.

In armed conflicts, children must stay safe and at the same time care about their rights to receive education, stay healthy and spend time with their families. (Malescu, S. V. 2019)

6. Violations of International Humanitarian Law

Even though the International Humanitarian Law (IHL) establishes definite regulations to protect both civilians and military concerning war, numerous violations of IHL are observed. Majority of these abuses are serious acts of violation of human rights and they go against the foundation of IHL basic objectives. Any offence committed to international law may negatively affect individuals terribly, expand humanitarian conditions of crisis and expand the field of warfare as well as human tension. The major types of IHL violations which occur within the context of current armed conflicts are discussed in the following sections. (Okimoto, K. 2003)

6.1 Indiscriminate Attacks

When the parties to a conflict fail to distinguish between those they may strike and the civilians they are not supposed to attack, they undertake indiscriminate attacks. According to the plain meaning of Articles 33 of IHL such attacks are not permitted since it does not uphold the principle of distinction. A violation of the Geneva Conventions and their Additional Protocols is a war crime against civilians or civilian objects that are harmed without any reason regarding military activity.

Use of such weapons in populated areas without efforts to target military facilities is any of these, bombing, shooting by artillery, or getting struck by an airstrike, and these have been defined as indiscriminate attacks. Such an assault has the capability of being very lethal when near places full of civilians in urban fighting grounds. A repetitive use of explosive weapons in urban areas has resulted in more civilian casualties and the destruction of vital facilities thus contributed to escalation of the humanitarian crisis.

Harm is perpetually put on people by cluster munitions and improvised explosive devices (IEDs) that frequently contribute to severe injuries and additional long-term complications. In spite of the Convention on Cluster Munitions (CCM) that aims at the blocking of such weapons, wars in certain regions still exploit it, causing enormous catastrophes among anyone, who is not engaged in the fighting. (Townley, S. 2017)

6.2 Targeting Humanitarian Aid

Making an attempt to cause harm to humanitarian workers or obstruct providing humanitarian aid is a breach of IHL that affects civilians. International Committee of the Red Cross (ICRC) and UN agencies are among the most critical players in the provision of essential aid to people affected by conflict. The IHL grants neutral organizations a humanitarian right to access and parties must grant them access to work and carry out supplies during conflicts.

Attacks on aid convoys, aid workers and aid facilities or hindrance to delivery of aid are high crimes in IHL. Adding insult to the suffering of the civilians, they perpetrate such atrocities especially in cases when food, water and medical supplies are not readily available. In some of the conflicts, giving the aid has been rendered hazardous to the workers and in some cases the supplies were taken away or detained and this intensified the whole situation to the victims of the crisis.

They do not only harm individuals but they also prevent efforts to assist and provide required services to those who need them. In addition to humanitarian, these measures will have long term challenges on humanitarian bodies to assist and this implies that the civilian population will still do without this vital assistance. (McCormack, T. 2018)

6.3 Use of Prohibited Weapons

The fact that IHL prohibits some weapons is because they are inadmissible to control and cause physical and mental agony to humans. These are chemical weapons, biological weapons, land mines and such other tools that inflict too much damage to the inhabitants of where the fighting is being conducted. The most important conventions in the world such as, the Chemical Weapons Convention (CWC) and Biological Weapons Convention (BWC) prohibit the use of the weapons during wars.

Nevertheless, despite the prohibitions, such weapons are used in armed conflicts, and they have usually devastated civilians:

- Effects of use of things such as chemicals results in extreme effects such as burns, blindness and difficulty in breathing. These weapons have been condemned and attracted the attention of other countries especially in Syria where a chemical weapon was used severally.
- The use of biological weapons with the societies or with the military is also the case that poses the extremely high risks to people, in particular, use of virus or bacteria. The consequences of such weapons are disastrous hence it is highly outrageous to the norms of IHL.
- Anti-personnel landmines that are left behind after wars end continue to pose a danger to the life of the civilians as they can cause serious injuries or even death. The Ottawa treaty (1997) was signed in an attempt to cease the use of landmines but there are still a lot of conflicts with the use of landmines providing more misery to civilians.

The use of such weapons remains prohibited under IHL and casts a serious doubt that some states and non-state actors actually subscribe to a set of rules pertaining to waging war as they must do. (Cannone, A. 2013)

6.4 Torture and Inhumane Treatment

The use of torture and other gruesome and degrading means of handling prisoners of war, detainees and civilians is prohibited in the IHL. Geneva Conventions and Convention Against Torture (CAT) make sure that any individual and people in custody are treated humanely and respectfully regardless of the situation. Despite the efforts developed by laws, the reports of torture, beating and inhuman acts during conflicts do not go away. There is a lot of brutality involved where prisoners of war and individuals detained due to the war are beaten, mistreated harshly and deprived medical care. This is a violation of the IHL regulation and fundamental human rights as well.

Some states also have had people secretly detained in detention centers and flown into foreign states to be further questioned and this has been highly denounced by the other states. Maintaining the culture of torture may result in lack of accountability efforts and poor image of states in the world. (Greer, S. 2015)

6.5 Sexual Violence in Conflict

Committing rape, sexual slavery and other forms of gender-based violence to women and men in war is grave contravention of the International Humanitarian Law and human rights. The employment of sexual violence is aimed at fueling terror in the populaces, disempowering their victims and also curbing the stability of the societies. Women, kids, as well as the more susceptible groups tend to be the victims of such violence most of the time which at most times leaves its marks on them many times after its occurrence.

Sexual violence is underway of the Rome Statute of the International criminal Court (ICC) and it has been identified as a war crime and a crime against humanity and the international community has understood that laws must be enacted to deal with sexual violence in situations of conflict. Even though a lot has been achieved, sexual violence remains a common experience in a number of protracted conflicts like in Syria, the Democratic Republic of Congo (DRC) and Myanmar, where incidents of rampant rape and abuse continue to be reported.

Although the international law is attempting to prevent sexual violence, there is no impunity yet. In many occasions, the accused individuals do not get the justice they deserve and survivors struggle to get any form of aid and assistance. Partnership is capable of preventing sexual violence in conflict through more accountability, assistance to the victim, and general awareness. (Gaggioli, G. 2014)

7. Enforcement and Accountability

The protection of both combatants and civilians during wars is still quite imperfect to accommodate the enforcement of International Humanitarian Law (IHL) well. Although there is really the International Criminal Court (ICC) and other international tribunals, the implementation of IHL is still uneven and its violation occurs with minimum-zero consequences. It examines in which way the IHL is being implemented, how the accountability of those, who are in charge of the situation can be guaranteed and what role does the state and international agencies play in this process.

7.1 International Criminal Court (ICC)

Thanks to the International Criminal Court (ICC), war criminals, those accused of genocide or those who take part in crimes against humanity can face justice. The Rome Statute that was adopted in the year 1998, established the ICC as the first permanent international court whose mandate was to investigate and prosecute serious crimes that had been outlined in international law.

The ICC has managed to record some successes in bringing perpetrators of crimes committed in conflicts, which primarily concerned Darfur, Uganda, the Democratic Republic of Congo (DRC) and Libya. It has also

indicted several high profile military and political leaders an indication that those who commit big crimes are not their subjects. However, the court has to confront an array of issues.

- Source jurisdiction: ICC is able to process offenses by individuals of states parties and offenses done on their territory, generally except when the security council of the UN forwards the case to it. Syria is not a member of the ICC and so there are those that fear that the court may not be able to act against the violations in Syria due to the political hitched visions of the country.
- Some states such as the United States, Russia and China have not ratified the Rome Statute, and they are highly criticizing the ICC as biased and against the sovereignty of a nation. Since there exists no universal support, the working range of the court is reduced.
- Having a Warrant and No Arrest: The ICC has issued warrants of arrest against those suspected of having committed international crimes, but faced problems of a government that is unwilling to cooperate. Individuals such as Omar al-Bashir who were once the leaders of the state of Sudan, and who is currently an international fugitive, have managed to evade the police and others successfully, indicating the shortcomings that the ICC faces in executing its decisions. (Glasius, M. 2006)

7.2 Ad Hoc Tribunals

Additional courts are designated to adjudicate certain conflicts and regions; examples consist of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal in Rwanda (ICTR) in addition to the ICC. United Nations (UN) established these tribunals to address crimes against humanity and war crimes that emerged during conflicts in Balkans and Rwanda in the 90s.

ICTY and ICTR have been able to prosecute and try significant cases among them being the case of Ratko Mladic, Radovan Karadzic and Jean-Paul Akayesu and their respective crimes in Bosnia and Rwanda wars. However, the other point of criticism regarded these tribunals as suspected inefficient, delays in running cases and difficulty in handling war criminals in insecure areas. There is also the fact that establishment of ad hoc tribunals is expensive and once conflicts have concluded the world community may not be bothered anymore in availing necessary systems of justice. (Mettraux, G. 2006)

7.3 National Courts and the Doctrine of Universal Jurisdiction

Elsewhere, suspects of war crimes can face local trials in national jurisdictions or can be prosecuted in universal jurisdictions with the local laws. Wherever war crimes, genocide or instances of crimes against humanity occur and irrespective of the nationality of those suspect of having committed the crimes, any state may prosecute such crimes. The concept has enabled other countries like Belgium and Spain to bring culprits of their crimes to face justice even in one country.

The merit of universal jurisdiction is that it allows justice beyond the infected arena but the method still has numerous challenges to conquer.

- States can choose not to charge somebody based on diplomatic, political concerns especially when that individual happens to command a lot of influence or subjecting that individual to punishment would negatively affect their relations with other states. Such a pace of action usually prevents individuals in pursuing justice despite the existence of laws.
- In instances where the community is not associated with the conflict, governments of a foreign state will face resistance by governments of countries where the suspected culprits are located. It happens that governments are not partners of international attempts to apprehend individuals and sometimes

- could not want to prosecute suspects in their courts, primarily due to matters of sovereignty or politics.
- Sometimes the national courts of post-conflict states are ill equipped to prosecute challenging cases involving war crimes, whether in terms of facilities, courts or expertise. Unless sufficient legal and administrative assistance is accorded, such courts can rarely penalize the violators of the laws of IHL. (Macedo, S. (Ed.).2006)

7.4 Challenges to Enforcement and Accountability

The established legal jurisprudence and governmental institutions like ICC, ad hoc tribunals and national courts are ineffective in dealing with IHL violations due to a number of obstacles.

- State sovereignty is an impediment to the enforcement of IHL as this concept tends to make states unwilling to accept the assistance of the external parties in case their national issues are at stake. States can argue that allowing the ICC investigate and prosecute their national citizens constitutes violation of sovereignty.
- Major countries in terms of international politics tend to affect the manner in which IHL is implemented these days. When not all the people who breach the IHL commit those causes, it debilitates and makes the breach poorly justified and ineffective in many respects to practice the IHL. Veto power can be used to prevent the attempts to move against a state in cases, when vested interests of a country are involved in protection of the country by the members of the UN Security Council.
- One of the most exiting issues that always remain is the absence of punishment and the politics of prevention of war crimes. People who are indicted of war crimes are not always subjected to justice due to the political will not to act based on national interests or being influenced by strong personalities despite the laws. There is also the tendency that those who have committed acts of atrocities may re-enter politics yet again resulting in the perpetration of violence and its repercussions being unstoppable.
- Challenges of Witness Protection and Evidence Collection: The act of collecting evidence and taking care of witnesses is a tremendous task to such courts in the situation of conflict. Most of the time, witnesses are at the risk of being harmed and lack of proper security outlines make others not want to come forward to testify.

7.5 The Need for Stronger Enforcement Mechanisms

In order to enhance the implementation of IHL more and hold the infringement perpetrators more accountable, there is a need to enhance the promotion of legal frameworks in place. This may take the form of:

- More coordination of states and international organizations e.g. the ICC in keeping the perpetrators accountable.
- Increasing the application of universal jurisdiction and making sure that national courts are capable and equipped in dealing with cases of war crimes.
- To reinforce the witnesses and victims of war crimes protection mechanism.
- Dealing with obstacles raised by political and diplomatic impediments to enforcement and, specifically, developing a more powerful and independent system of international justice that does not have to rely on political sponsorship.

8. Recommendations for Strengthening IHL and Enforcement Mechanisms

8.1 Adaptation to New Forms of Warfare

Most of the current conflicts are waged by forces which are not associated with an established government like the rebel groups, militias and terrorist organizations. They do things independently of the establishment government and do not tend to subscribe to IHL. Laws and enforcement mechanisms ought to in the future be capable of punishing non-state groups due to their malpractices and also making diplomatic protocols especially or specifically on how to engage the views of non-state groups.

Robots and drones, cyber warfare and autonomous weapons are altering the nature of the armed conflict. The IHL has to be revised to take control of issues raised by these technologies without adding civilian injury. The world should come up with easier to abide in regulations and draft treaties so that possibilities of abuse of the technologies are reduced.

8.2 Enhancing Accountability and Enforcement

Mostly it is the mandate of the ICC to prosecute war crimes but it is struggling to fulfill this since it has a lot of approaching challenges such as conflicts of jurisdiction, the inadequate assistance of other nations and not being able to find the fugitives. The collaboration between states with the International Criminal Court should be enhanced, primarily through the enhancement of the agreements regarding exchanging the suspects and consolidating the prosecution authority of the court.

States usually choose not to pursue any proceedings against the people who are accused of being war criminals when they still hold a lot of influence on the political or military front. States would have access to prosecute crimes carried out in other places as international courts might not have the jurisdiction to prosecute some persons due to increased use of universal jurisdiction.

To improve greater regional institutions and tribunals such as the African Court on Human and Peoples Rights or the European Court of Human Rights would be to enhance the responsibilities of those who violate the rules of IHL in a regional context. Courts at the regional level may be more accessible to local citizens and may even collaborate with ICC.

8.3 Protection of Vulnerable Populations

Armed conflicts tend to generate very many civilians to abandon their homesteads. International organizations need to offer more assistance to refugees and IDPs by ensuring that they receive assistance, security, and possibility of relocating to their safe countries. It entails giving special assistance to these organizations such as the United Nations High Commissioner for Refugees (UNHCR) and the other organizations which protect the displaced people.

Child soldiers are still part of the problem in various wars in the world. International law needs to be more protective to underage recruitment to wars and to assist the children to reintegrate the society after the end of the conflicts. Assistance and care provided to children during armed conflict need to be amplified, primarily by holding up education, mental health and reintegration in the society.

8.4 Improving Humanitarian Access and Assistance

One of the major issues in war cases is that humanitarian aid is normally thwarted. As per the provisions of IHL, humanitarian aid should not be hampered by act of assailers who interfere in the work of the group which is made to help people in conflict areas. There should be more powers with the international laws in order to bring the blockers of humanitarian aid to book both, those who are nation representatives and those who are not.

Humanitarian associations like the International Committee of the Red Cross (ICRC) may endanger themselves in the process of extending assistance. IHL should be more serious regarding the protection of humanitarian workers and organizations a worker belongs to when in precedent areas of conflict. States should take extra efforts to protect people in humanitarian aid.

8.5 Political Will and Strengthening of National Courts

The national courts also have to get quite a lot more actively engaged in the prosecution of people who violate the IHL laws. States should be assisted to revise their laws to enable them to prosecute war crimes against the law of war or enforce multilateral agreements.

Failure to implement IHL fully tends to become the problem of motivation and unwillingness on part of states. To some extent, nations must make more effort to abide by and adhere to IHL in conflicts and in post rebuilding that is to be carried out. It implies either reporting the violations immediately and ensuring that other individuals are accountable regardless of their level of rank and political or military position.

8.6 Public Awareness and Education

More often than not, individuals and sides involved in a conflict are not well versed with IHL and as such, they do not obey its provisions. Both governments and international organizations as well as non-governmental organizations should put education regarding IHL to the top of their priority agenda not only of their soldiers but also of the masses. The armed forces, law enforcement, and policymakers need to be properly trained in IHL so that there would be an increase in compliance with the laws of conflict.

There is need to have the interest of civil society like humanitarian groups, media and locals in the application of IHL rules in order to sanction the parties that contravene IHL rules. Civil society organizations have the ability to report crime, provide humanitarian aid and press authorities to be reported.

9. Conclusion

During conflicts, the International Humanitarian Law helps alleviate much of the pain, yet its impact is generally undermined by poor implementation, rule violations and evolutions in war practices. A lot has been done to come up with laws covering the protection of the civilians but there is a lot to be done towards ensuring that the laws are enforced and those who violate these laws are not spared. The international community should approach IHL flexibly and be sure to find the means to enforce it, increase accounting, and ensure protection of regular people remains the priority objective everywhere. Through powerful legislations, tightening of collaboration and through addressing the underlying factors of non-adherence, we can save human dignity and ensure that the usefulness of IHL would continue to help civilians trapped in war. The global community has to adapt to the new type of war where human rights should be upheld and the perpetrator of crimes brought to justice regardless of the conditions.

The International Humanitarian Law (IHL) is a significant infrastructure, which safeguards human dignity in times of wars. IHL aims to minimize the cost of war by regulating the methods of fighting the war and providing significant protection to those people who are not engaged in the combat, such as civilian population, prisoners, and the injured. The laws that safeguard civilians during conflicts have become much better during the past 100 years with many treaties like the Geneva Conventions and their Additional Protocols as well as the formation of courts like the International Criminal Court (ICC).

10. References

- Alexander, A. (2015). A short history of international humanitarian law. *European Journal of International Law*, 26(1), 109-138.
- Bouvier, P. (2015). Care to the Wounded: A Core Duty of Humanity. *Ethics and Armed Forces*, 1, 3-8.

- Breakey, H. (2012). The protection of civilians in armed conflict: Four concepts. *Norms of Protection: Responsibility to protect, protection of civilians and their interaction*, 40-61.
- Brooks, R. (2014). *Civilians and armed conflict*.
- Cannone, A. (2013). The use of prohibited weapons and war crimes. In *War Crimes and the Conduct of Hostilities* (pp. 173-193). Edward Elgar Publishing.
- Cassimatis, A. E. (2007). International humanitarian law, international human rights law, and fragmentation of international law. *International & Comparative Law Quarterly*, 56(3), 623-639.
- Clapham, A., & Schabas, W. A. (2016). *Human rights and international criminal law. The Cambridge Companion to International Criminal Law*, 11.
- Clapham, A., Gaeta, P., Sassòli, M., & van der Heijden, I. (Eds.). (2015). *The 1949 Geneva conventions: a commentary*. Oxford University Press.
- Crowe, J., & Weston-Scheuber, K. (2013). *Principles of international humanitarian law*. Edward Elgar Publishing.
- De Baets, A. (2022). The view of the past in international humanitarian law (1860–2020). *International review of the Red Cross*, 104(920-921), 1586-1620.
- Droege, C., & Giorgou, E. (2022). How international humanitarian law develops. *International Review of the Red Cross*, 104(920-921), 1798-1839.
- Gaggioli, G. (2014). Sexual violence in armed conflicts: A violation of international humanitarian law and human rights law. *International Review of the Red Cross*, 96(894), 503-538.
- Glasius, M. (2006). The international criminal court. *Taylor & Francis*.
- Greer, S. (2015). Is the prohibition against torture, cruel, inhuman and degrading treatment really 'absolute' in international human rights law?. *Human Rights Law Review*, 15(1), 101-137.
- Heller, K. J. (2011). the Rome statute of the International Criminal Court. *The handbook of comparative criminal law*, Stanford Law Books, Stanford, 597ss.
- Hill-Cawthorne, L. (2014). The role of necessity in international humanitarian and human rights law. *Israel Law Review*, 47(2), 225-251.
- Jinks, D. (2005). The Applicability of the Geneva Conventions to the Global War on Terrorism. *Va. J. Int'l L.*, 46, 165.
- Kontorovich, E. (2012). The Penalties for Piracy: An Empirical Study of National Prosecution for International Crime. *Northwestern Public Law Research Paper*, (12-16).
- Kretzmer, D. (2009). Rethinking the application of IHL in non-international armed conflicts. *Israel Law Review*, 42(1), 8-45.
- Lev, A. (2025). *Principle of Distinction in International Humanitarian Law*.
- Macedo, S. (Ed.). (2006). *Universal jurisdiction: national courts and the prosecution of serious crimes under international law*. University of Pennsylvania Press.
- Malescu, S. V. (2019, March). Child protection in armed conflicts. In *International Scientific Conference "Strategies XXI"* (Vol. 15, No. 2, pp. 192-199). "Carol I" National Defence University.
- McCormack, T. (2018). *International humanitarian law and the targeting of data*.
- McKay, F. H., & Taket, A. (2020). Responding to breaches of human rights. In *Health Equity, Social Justice and Human Rights* (pp. 164-176). Routledge.
- Mettraux, G. (2006). *International Crimes and the ad hoc Tribunals*. Oxford University Press.

- Newalsing, E. (2008). Jean-Marie Henckaerts and Louise Doswald-Beck (eds.), Customary International Humanitarian Law, Geneva and Cambridge, International Committee of the Red Cross and Cambridge University Press (2005), 2 volumes, ISBN 9780521539258, 4,411 pp.,£ 320.00 (boxed set, hb); Volume I available separately, ISBN 9780521005289, 621 pp.,£ 32.00 (pb). *Leiden Journal of International Law*, 21(1), 255-279.
- Nouwen, S. M. (2018). The International Criminal Court and Conflict Prevention in Africa. In The Palgrave Handbook of Peacebuilding in Africa (pp. 83-102). Cham: Springer International Publishing.
- Okimoto, K. (2003). Violations of international humanitarian law by United Nations forces and their legal consequences¹. *Yearbook of International Humanitarian Law*, 6, 199-236.
- Power, S. (2002). Raising the cost of genocide. *DISSENT-NEW YORK*-, 85-96.
- Prescott, J. R. V. (2014). Political frontiers and boundaries. Routledge.
- Provost, R. (2002). International human rights and humanitarian law (Vol. 22). *Cambridge University Press*.
- Schmitt, M. N. (Ed.). (2017). Tallinn manual 2.0 on the international law applicable to cyber operations. *Cambridge University Press*.
- Schrepfer, N. (2018). Protection in Practice: Protecting IDPs in Today's Armed Conflicts. *International Journal of Refugee Law*, 30(2), 292-306.
- Schwendimann, F. (2011). The legal framework of humanitarian access in armed conflict. *International Review of the Red Cross*, 93(884), 993-1008.
- Solis, G. D. (2021). The law of armed conflict: international humanitarian law in war. *Cambridge University Press*.
- Townley, S. (2017). Indiscriminate attacks and the past, present, and future of the rules/standards and objective/subjective debates in international humanitarian law. *Vand. J. Transnat'l L.*, 50, 1223.
- Van den Boogaard, J. C. (2019). Proportionality in international humanitarian law. Uva. NL. Retrieved February, 6, 2024.