

# Implementation of Human Rights and Humanitarian Law in Situations of Armed Conflict: An Analytical Approach

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DOI: <https://doi.org/10.36348/sijlcj.2025.v08i03.003>

| Received: 07.02.2025 | Accepted: 15.03.2025 | Published: 18.03.2025

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## Abstract

International humanitarian law and international human rights law are two distinct but complementary bodies of law. They are both concerned with the protection of the life, health and dignity of individuals. IHL applies in armed conflict while human rights law applies at all times, in peace and in war. The interplay between human rights and humanitarian law in armed conflict remains a critical area of legal and ethical discourse. While international humanitarian law (IHL) governs the conduct of hostilities, human rights law ensures fundamental freedoms and protections even in war. This article examines the practical challenges in implementing these legal frameworks, the role of state and non-state actors, and mechanisms for enforcement and accountability. Through an analytical approach, the study evaluates case studies from recent conflicts to assess the effectiveness of international legal instruments.

**Keywords:** Human Rights, Peace and War, Fundamental Rights, Right to Life, Freedom of Thought, Conscience and Religion.

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## INTRODUCTION

Armed conflicts pose severe challenges to the protection of human rights and the application of international humanitarian law. The dichotomy between IHL and human rights law has led to debates regarding their concurrent applicability. This article seeks to analyze the extent to which human rights obligations persist in armed conflicts and how IHL complements or supersedes them in specific situations.

### Theoretical Framework

The principles of IHL, primarily derived from the Geneva Conventions and Additional Protocols, regulate the conduct of war. Simultaneously, international human rights law (IHRL), as enshrined in treaties such as the International Covenant on Civil and Political Rights (ICCPR), mandates protections that apply both in peacetime and during conflict.

International non-governmental organizations have recognized that human rights violations within their respective areas of concern may occur during armed conflicts. Indeed, serious human rights violations, including arbitrary killings, detention, and ill-treatment, are likely to increase in times of armed conflict.

### Geneva Conventions and Protocols:

#### 1. The Four Geneva Conventions (1949)

Following the atrocities of World War II, the Geneva Conventions of 1949 were established to protect those who are not participating in hostilities, such as civilians, wounded soldiers, and prisoners of war.

#### Convention I:

- Protects wounded and sick soldiers on land during war.
- Ensures medical personnel and facilities are respected.

#### Convention II:

- Extends similar protections to the wounded, sick, and shipwrecked members of armed forces at sea.

#### Convention III:

- Establishes rights for prisoners of war (POWs).
- Prohibits torture, humiliating treatment, and ensures humane conditions.

#### Convention IV:

- Protects civilians during wartime, including those under occupation.

- Prohibits mass deportations, hostage-taking, and indiscriminate attacks.

## 2. The Additional Protocols

Three additional Protocols were adopted to enhance the Geneva Conventions, addressing modern warfare challenges.

### Protocol I (1977):

- Protects civilians from direct attacks in international armed conflicts.
- Bans indiscriminate weapons and attacks on civilian infrastructure.

### Protocol II (1977):

- Extends protection to victims of non-international armed conflicts (civil wars).
- Bans attacks on civilians, summary executions, and forced displacement.

### Protocol III (2005):

- Introduces the Red Crystal as an additional humanitarian emblem, alongside the Red Cross and Red Crescent.

## 3. Importance of the Geneva Conventions

- **Universal acceptance:** Ratified by 196 countries.
- **Humanitarian protection:** Safeguards fundamental human rights during war.
- **War crime accountability:** Violations can lead to prosecution under international criminal law.

### Armed Conflict:

- In armed conflict, girls and women are disproportionately targeted, but boys and men are also sexually violated.
- For the last two decades, the United Nations has been the forefront of efforts to protect children and youth in armed conflict.
- The special representative of the secretary general for children and Armed Conflict Coordinates the UN family efforts.
- The UN Security Council is actively engaged in efforts to protect children in armed conflicts by placing the issue on the international peace and security agenda.
- In early 2010, the signing of an action plan with the Unified Communist Party of Nepal – Maoist resulted in the discharge of about 2,000 minors.
- In June 2010, the Security Council released a statement expressing its readiness to impose targeted measure against persistent violators recruiting, sexually abusing, maiming and killing children and youth in war.

Today, grave violations are taking place against children and youth in over twenty war affected countries. As primary victims of armed conflict, young people experience many forms of suffering. They are killed,

maimed, orphaned, abducted, deprived of education and health care and left with deep emotional and physical scars. While girls and women are disproportionately targeted, boys and men are also sexually violated in conflict situations. They also suffer from other consequences of conflict such as poverty, unemployment, little education, poor governance and the disintegration of families and communities. We hope "universal ratification of the Optional Protocol on the involvement of children in armed conflict will establish an international moral consensus that no child should take part in hostilities or be involuntarily recruited and that former child soldiers should be assisted by their governments after a life of violence and distress".

### Strengthening International Humanitarian Law with ICRC:

The ICRC is currently undertaking a major consultation process on how to strengthen legal protection for victims of armed conflict. This involves two tracks of work, one regarding detention in non-international armed conflict, and the other on strengthening compliance with international humanitarian law generally.

For international humanitarian law to effectively regulate the behavior of warring parties there is a need for both adequate rules and actual compliance with those rules.

In most scenarios, international humanitarian law sufficiently addresses the humanitarian impact of armed conflict. It is respect for the law that is lacking, contemporary armed conflicts repeatedly demonstrate that the most fundamental and universally acknowledged laws of war are often disregarded and existing international humanitarian law does not provide effective mechanism to stop violations when they occur.

But in certain areas, the rules themselves need strengthening. Deprivation of liberty in relation to non-international armed conflict is one such area.

To address some of these challenges, the ICRC is currently undertaking a major project on "Strengthening Legal Protection for Victims of Armed Conflict".

### The project focuses on two priority areas:

1. **Detention track:** The protection of persons deprived of their liberty in relation to Non-International Armed Conflict (NIAC). The detention track seeks to identify options for strengthening international humanitarian law regarding the deprivation of liberty of persons in relation to non-international armed conflict. Compared to the detailed body of treaty law regarding detention in relation to international armed conflict, the treaty law regarding detention in relation to non-international armed conflict is very limited.

2. **Compliance track:** Mechanisms for strengthening compliance with international humanitarian law. The compliance track seeks to identify options for improving overall compliance with international humanitarian law, by both states and non-state armed groups. Many rules of international humanitarian law continue to be violated daily. International humanitarian law lacks strong and effective mechanisms for monitoring and promoting compliance. Together, the ICRC and Swiss Government are consulting with states and other relevant actors on how to address the weakness.

### Recommendations for Strengthening the Implementation of the Geneva Conventions and Protocols

To ensure better adherence to international humanitarian law (IHL) and enhance the effectiveness of the Geneva Conventions and their Protocols, the following recommendations can be considered:

1. **Strengthening Enforcement Mechanisms**  
**Enhancing Accountability:** Strengthen the role of the International Criminal Court (ICC) and other tribunals to prosecute war crimes. Encourage universal jurisdiction, allowing national courts to prosecute violations regardless of where they occur.  
**Sanctions for Non-Compliance:** Impose diplomatic, economic, or military sanctions on states and groups violating IHL. Enforce arms embargoes against perpetrators of war crimes.
2. **Improving Awareness and Training Military**  
**Training & Integration into National Laws:** Ensure that armed forces receive mandatory training on Geneva Conventions. Include IHL principles in national military doctrines and rules of engagement.  
**Civil Society Engagement:** Raise public awareness through educational campaigns and media coverage. Strengthen the role of NGOs, academia, and journalists in monitoring war crimes.
3. **Enhancing Protection for Civilians and Humanitarian Workers**  
**Expanding Protection in Modern Warfare:** Adapt laws to address new threats, such as cyber warfare, autonomous weapons, and terrorism. Strengthen protections against attacks on hospitals, aid workers, and journalists.  
**Humanitarian Access & Aid Coordination:** Ensure safe corridors for civilians in conflict zones. Facilitate unrestricted access for Red

Cross, Red Crescent, and UN humanitarian missions.

4. **Encouraging Universal Ratification and Compliance**  
**Promote State and Non-State Actor Commitment:** Persuade states that have not ratified all Protocols to do so. Engage with rebel groups and militias to ensure compliance with humanitarian principles. Regular Monitoring and Reporting  
**Establish independent international bodies to review compliance.** Improve reporting mechanisms within the United Nations and regional organizations.
5. **Addressing Emerging Challenges in Armed Conflict**  
**Cyber Warfare & Artificial Intelligence (AI):** Develop new international laws to regulate cyber attacks and AI-driven weaponry under IHL.  
**Use of Private Military Contractors:** Implement stricter accountability and regulations for mercenary groups and private military firms.  
**Climate Change & Conflict:** Recognize the role of climate-induced conflicts and integrate environmental protection into IHL policies.

### CONCLUSION

While the Geneva Conventions remain the cornerstone of humanitarian law, evolving warfare tactics and geopolitical challenges require continuous adaptation and enforcement. Strengthening accountability, increasing global awareness, and addressing modern security threats are crucial steps toward ensuring better compliance and protection for victims of armed conflicts.

### REFERENCE

- International Convention on Civil and Political Rights Article-2.
- Geneva Conventions, Common Article-3.
- First, Second and Third Geneva Conventions, Common Article 9, Fourth Geneva Convention, Article 10, Geneva Conventions, Common Article 3, The Red Cross and Human Rights, ICRC, 38-39 (1983).
- See General Assembly.
- See UN Soc. E/CN. 4/1985/18.
- See, "Case concerning Military and Paramilitary activities in and against Nicaragua (Nicaragua V United States).