

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary  
Peer Reviewed

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

## EDITORIALTEAM

### EDITORS

#### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



#### **Dr. Namita Jain**



*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC-NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrish Bharat Foundation, New Delhi. (2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## Mrs.S.Kalpna

Assistant professor of Law

*Mrs.S.Kalpna, presently Assistant professor of Law, VelTech Rangarajan Dr.Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law,Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration.10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN- 2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **PROTECTION OF CIVILIANS UNDER INTERNATIONAL HUMANITARIAN LAW: A CRITICAL ANALYSIS**

AUTHORED BY – NARENDER & PROF. (DR) VANDANA ARORA

## **ABSTRACT**

*“This research critically examines the effectiveness of International Humanitarian Law (IHL) in protecting civilians during armed conflicts. Despite the comprehensive legal framework established by the Geneva Conventions and their Additional Protocols, civilians continue to suffer disproportionately due to evolving warfare tactics, blurred combatant-civilian distinctions, and inadequate enforcement. The study traces the development of IHL, with a particular focus on Common Article 3 and Additional Protocol II, which address non-international armed conflicts. It highlights the historical role of the International Committee of the Red Cross (ICRC), the legal distinctions between civilians and combatants, and the interplay between humanitarian and human rights law. UN Resolutions, notably 2444, 1265, and 1674, are analyzed to underscore international efforts to institutionalize civilian protection. The research concludes that while IHL provides foundational protections, its practical implementation remains challenged by political interests, varying interpretations, and the lack of consensus on enforcement. Strengthening legal mechanisms, clarifying applicability thresholds, and enhancing compliance remain critical to upholding humanitarian values in modern conflicts.”*

### **Keywords:**

*International Humanitarian Law, Civilian Protection, Geneva Conventions, Common Article 3, Additional Protocol II, Non-International Armed Conflict*

## **1. Introduction :**

One of the main goals of international humanitarian law hereinafter called as IHL is to protect people during armed conflicts. IHL creates legal standards to protect non-combatants from the atrocities of war and is based on the Geneva Conventions and its Additional Protocols. However, because of intentional targeting, indiscriminate strikes, and the changing nature of combat, civilians still suffer in contemporary conflicts in spite of these legal protections. This essay assesses the use of IHL in current war scenarios, highlights important legal and practical

issues, and critically examines how well it protects civilians. The goal of this analysis is to determine if the legal framework currently in place is adequate to protect humanitarian values in modern combat.

Neither is an old man nor a child to be killed, surely not a woman and especially not a king. "Let the soldiers always avoid committing rash acts, a murderous assault, delay in the service of the king, overlooking what is disagreeable to the king, and neglect in the performance of their duties." If one kills after fighting in a suitable manner, no virtue is violated. Considering the current state of the world, we must emphasize how urgent it is to raise human consciousness of a powerful system.

### **1.2. Concept of Humanitarian Law:**

International Humanitarian Law is intended to address urgent crises, and the protection and aid provided to victims should not be influenced by political agendas. In the modern world, formal declarations of war have become rare. Today, the use of military force is primarily governed by the UN Charter, which permits it mainly for legitimate self-defense. Individuals involved in implementing humanitarian law must recognize its importance—not just because it is legally required, but because they genuinely believe in its humanitarian purpose and effectiveness.

It is widely recognized that the primary concern of 'Geneva Law' is not the actual conduct of warfare, but rather the humane treatment of captured combatants and the safeguarding of civilians from the consequences of armed conflict. Violations of humanitarian law are not a recent development they have occurred throughout history and continue to take place in various forms across the globe. Armed conflicts can be either international or internal in nature. Nevertheless, international humanitarian law seeks to regulate warfare by setting rules for the behavior of combatants, limiting unnecessary cruelty and violence, and ensuring essential protections for those most affected by war.

International Humanitarian Law aims to govern and soften the impact of armed conflict by offering protection to those most affected by it.<sup>1</sup> Its primary objective is to shield victims of war from the harmful consequences of hostilities as much as possible. These victims include all individuals who are no longer participating in the conflict—such as the wounded, sick,

---

<sup>1</sup> Cullen, A. (2005). Key developments affecting the scope of internal armed conflict in international humanitarian law. *Mil. L. Rev.*, 183, 66.

shipwrecked, prisoners of war, and civilians not engaged in combat. In contemporary times, human rights law also complements humanitarian law by providing additional safeguards for non-combatants during armed conflicts.

Recent outbreaks of violence in various parts of the world have triggered both national and international discussions on what legally constitutes an "armed conflict" under international law. Despite its importance, there is currently no universally accepted or precise definition of the term. The debate primarily revolves around how "armed conflict" is interpreted within the Geneva Conventions and their Additional Protocols, which are central to International Humanitarian Law (IHL). Although these instruments recognize two categories—international armed conflict and non-international armed conflict—they do not explicitly define the term itself. As a result, they offer limited guidance in complex or borderline situations, such as conflicts between a state and a transnational terrorist organization. Importantly, the Geneva Conventions are not applied in isolation; they work in tandem with other areas of law, particularly international human rights law, to address such scenarios.

### **1.3. Meaning of Protection of Civilians:**

The protection of civilians during armed conflict has become a central focus of International Humanitarian Law (IHL). IHL outlines specific rules designed to safeguard civilians from the effects of warfare and to limit the means and methods used in combat. It also establishes enforcement mechanisms to promote compliance with these rules. Notably, humanitarian law holds individuals personally accountable for violations they commit or for ordering others to commit such acts.<sup>2</sup> The devastating events witnessed in conflicts such as those in the Gulf, Somalia, and Bosnia serve as stark reminders of the inhumanity of war, marked by extreme violence, suffering, and loss of life.<sup>3</sup>

International Humanitarian Law (IHL), a branch of international law, seeks to reduce human suffering during times of war. Its aim is not to idealize the fate of war victims but to protect them from the worst horrors of conflict. Broadly defined, IHL refers to international rules—established through treaties and customary practices—that are specifically designed to address humanitarian concerns arising from armed conflicts. These rules serve to either restrict the

---

<sup>2</sup> Jean Pictet (Ed.) *Commentary to the Geneva Conventions of 12 August 1949*. Vol. 1, ICRC, 1952, p.86.

<sup>3</sup> Leitenberg, M. (2006). *Deaths in Wars and Conflicts in the 20th Century*. Ithaca, NY: Cornell University, Peace Studies Program.

methods and means of warfare available to warring parties or to protect individuals and property that may be impacted by hostilities. By curbing the most extreme and indiscriminate violence, IHL supports the broader goals of international law in promoting peace, humanity, and order during warfare.

The formal codification of customary rules governing warfare began in the mid-19th century through the adoption of multilateral treaties that clarified previously vague customary practices. The prolonged duration of World War I and the large number of prisoners of war highlighted the urgent need for enhanced protections for detainees. Subsequently, World War II prompted a significant revision and further advancement of the Geneva Law. The 1949 Geneva Conventions introduced a landmark development by establishing comprehensive rules that apply fully to International Armed Conflicts.<sup>4</sup>

The Geneva Conventions of August 12, 1949, are universally recognized treaties aimed at safeguarding victims of war. These agreements protect wounded and sick soldiers, shipwrecked personnel, prisoners of war, and civilians who come under enemy control. They also ensure the protection of medical personnel, medical units and facilities, as well as medical transportation. However, despite their broad coverage, the Conventions have certain gaps, notably regarding the behavior of combatants and the protection of civilians from the impacts of military operations.<sup>5</sup>

To address the limitations of the 1949 Geneva Conventions, two additional protocols were adopted in 1977. These protocols serve as supplements to the original conventions. The first, Additional Protocol I, pertains to the protection of victims in international armed conflicts. The second, Additional Protocol II, focuses on the protection of victims in non-international armed conflicts.

## **2. Protection of Civilians under International Humanitarian Law:**

### ***2.1. Who are Civilians?:***

Civilians are individuals who are not part of the armed forces, and the term "civilian

---

<sup>4</sup> Mantilla, G. (2017). The Origins and evolution of the 1949 Geneva conventions and the 1977 additional protocols.

<sup>5</sup> A.P.V.Rogers, Law on the Battlefield, Manchester University Press, 1996, pp.144/5

population" refers collectively to these non-combatants.<sup>6</sup> In traditional international armed conflicts, identifying combatants and non-combatants was relatively straightforward. However, in modern non-international armed conflicts, distinguishing between the two has become increasingly challenging. Although civilians do not take a direct part in hostilities, they often suffer the most from violations of International Humanitarian Law. As a result, specific legal protections have been established to shield them from military attacks and occupation.

A major milestone was achieved during the 1949 Diplomatic Conference with the adoption of the Fourth Geneva Convention, which specifically addresses the protection of civilian persons during times of war. This Convention establishes that individuals who fall into enemy hands are entitled to protection under international law. Historical patterns of warfare clearly demonstrate that civilians are often the ones who bear the brunt of the suffering and devastation caused by armed conflict.

The law of armed conflict is founded on the basic principle that warfare should occur strictly between the armed forces of the opposing sides. As such, civilians must be excluded from the conduct of hostilities.<sup>7</sup> Targeting civilians is never a lawful or acceptable means of achieving military victory. Civilians must be protected and respected at all times, regardless of the circumstances. International Humanitarian Law (IHL) provides a clear legal structure aimed at shielding civilians from the impacts of armed conflict. This protective framework applies to both international and non-international armed conflicts. Despite these legal safeguards, civilians often suffer greatly whether as unintended victims or as deliberate targets of violence. Even when conflicting parties claim to uphold their IHL obligations, high civilian death tolls and significant destruction of civilian infrastructure are frequently observed.

According to Article 50 of Additional Protocol I,<sup>8</sup> any individual who does not fall under the categories listed in Article 4(A)(1), (2), (3), and (6) of the Third Geneva Convention, or Article

---

<sup>6</sup> Crawford, E. (2015). *Identifying the enemy: civilian participation in armed conflict*. Oxford University Press, USA.

<sup>7</sup> Dinstein, Y. (2022). *The conduct of hostilities under the law of international armed conflict*. Cambridge university press.

<sup>8</sup> Article 50 — "Definition of civilians and civilian population 1. A civilian is any person who does not belong to one of the categories of persons referred to in Article 4 A 1), 2), 3) and 6) of the Third Convention and in Article 43 of this Protocol. In case of doubt whether a person is a civilian, that person shall be considered to be a civilian. 2. The civilian population comprises all persons who are civilians. 3. The presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character.."

43 of the Protocol, is considered a civilian. In cases of uncertainty regarding a person's status, they must be presumed to be a civilian. Civilians are entitled to the protections provided under International Humanitarian Law, which means they must not take part in hostilities. However, if civilians do engage directly in armed conflict, they temporarily lose these legal protections. Despite this, their legal classification remains that of civilians—not combatants. IHL also draws a distinction between civilians who are involuntarily used as human shields and those who participate voluntarily. Civilians who directly participate in hostilities lose their protection against attacks for the duration of their involvement.<sup>9</sup>

### ***2.2. Distinction between civilian and combatant:***

The principle of distinction is a cornerstone of International Humanitarian Law. It requires a clear separation at all times between combatants and civilians, as well as between military targets and civilian objects. This principle prohibits the use of any weapons or tactics that fail to differentiate between those who are actively engaged in hostilities and those who are not. Under IHL, special protection is granted to the sick and wounded, medical personnel, prisoners of war, and civilians. However, there is an important exception: when civilians take direct part in hostilities either individually or within a group they may be lawfully targeted, but only for as long as they are directly involved in the conflict. The UN General Assembly Resolution 2444(XXIII of 1968) states that:

“It is prohibited to launch attacks against the civilian population” and “that distinction must be made at all times between persons taking part in the hostilities and members of the civilian population to the effect that the latter be spared as much as possible.”<sup>10</sup>

## **3. Legal Framework for Protection of Civilians:**

### **3.1. Relevant U.N. Resolutions:-**

- a) **General Assembly Resolution 2444:** This particular UN resolution holds substantial importance in the realm of human rights during armed conflicts. Its adoption was prompted by the severe impact of warfare on civilian populations, as combatants often fail to distinguish between military targets and civilians. The resolution is grounded

---

<sup>9</sup> Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of International Armed Conflicts, 1977, Art. 51(3), 1125 U.N.T.S. 3 [hereinafter: AP I]; Customary International Humanitarian Law (ICRC, J.-M. Henckaerts & L. Doswald-Beck eds., 2005), rule 6

<sup>10</sup> See “The UN General Assembly Resolution 2444(XXIII of 1968)

in the principles established during the International Conference held in Vienna in 1965.

The traditional separation between human rights law and international humanitarian law was brought into question during the World Conference on Human Rights, which took place in Tehran from 22 April to 13 May 1968,<sup>11</sup> marking the 20th anniversary of the Universal Declaration of Human Rights (1948). This conference emphasized the growing recognition that human rights protections must also extend to individuals affected by armed conflict, leading to increased overlap between the two legal frameworks.

In December 1968, the United Nations General Assembly addressed the issue of human rights in armed conflict and adopted Resolution No. 2444,<sup>12</sup> which affirmed the relevance and applicability of human rights principles during warfare<sup>13</sup>. This resolution marked a significant step in bridging the gap between international human rights law and international humanitarian law.

Building on both UN Resolution 2444 and the Tehran Declaration, the International Committee of the Red Cross (ICRC) broadened its legal and scholarly efforts. In February 1969, the ICRC convened a committee of experts to examine the application of the laws of war to the conduct of hostilities. This resulted in a pivotal report titled "Reaffirmation and Development of the Laws and Customs Applicable in Armed Conflicts."

This report is considered one of the most authoritative analyses of the laws of armed conflict since World War II, laying the groundwork for the modern codification and development of International Humanitarian Law as seen in the 1977 Additional Protocols.<sup>14</sup>

- b) Security Council Resolution 1265:** In September 1999, following the statement of its President during the Council's discussion on "Protection of civilians in armed conflict" and regarding the Secretary-General's report on the subject, the Council

---

<sup>11</sup> Kolb, R. (2013). Human rights law and international humanitarian law between 1945 and the aftermath of the Teheran conference of 1968. In *Research handbook on human rights and humanitarian law* (pp. 35-52). Edward Elgar Publishing.

<sup>12</sup> World Conference on Human Rights, Resolution NO.XXIII entitled "Human Rights In Armed Conflicts".UN Doc A/CONF/32/41(12 May 1968) 18.

<sup>13</sup> "Atrocities, Massacres, and War crimes"; edited by Alexander Mikaberidze; published by ABC – CLIO; Pg.558.

<sup>14</sup> Cassese, A. (1984). The Geneva protocols of 1977 on the humanitarian law of armed conflict and customary international law. *UCLA Pac. Basin LJ*, 3, 55.

unanimously adopted Resolution 1265.<sup>15</sup> The resolution expressed the Council's willingness to respond to situations of armed conflict where civilians are targeted or where humanitarian aid to civilians is intentionally obstructed, and committed to considering the adoption of appropriate measures. It also called on states to ratify key human rights treaties and to prosecute those responsible for genocide, crimes against humanity, and serious violations of international humanitarian law. Lastly, the Council showed readiness to explore ways to adjust peacekeeping mandates to better protect civilians.

UN Security Council Resolution 1265 was important as it was the first to recognize that civilians make up the large majority of casualties in armed conflicts. It expressed special concern for the harm caused to vulnerable populations, including women, children, refugees, and internally displaced persons, and acknowledged how this damage affects lasting peace, reconciliation, and development.

To enhance the long-term protection of civilians, the resolution emphasized the importance of addressing the root causes of armed conflict in a comprehensive way, including promoting economic growth, eradicating poverty, supporting sustainable development, fostering national reconciliation, good governance, democracy, the rule of law, and upholding human rights. The Security Council strongly condemned the deliberate targeting of civilians and attacks on protected sites during armed conflicts, urging all parties to put an end to such actions.<sup>16</sup> It also highlighted the responsibility of States to prevent these violations and to prosecute those accountable for breaches of international humanitarian law.

- c) **Security Council Resolution 1674:** The Security Council has a long history of adopting resolutions in response to specific country situations where international peace and security are threatened, often involving ongoing or imminent armed conflict. Treating the protection of civilians during armed conflict as a recurring theme, the Council has included this issue on its agenda since 1999, with a focus on State responsibilities. On April 28, 2006, the Security Council unanimously adopted Resolution 1674,<sup>17</sup> which reaffirms the commitments outlined in paragraphs 138 and

---

<sup>15</sup> Ntamwira, T. T., & Manirakiza, E. (2024). The Role of the United Nations Security Council in the Protection of Civilians: An Application of Resolution 1265 (1999) in the Democratic Republic of Congo. *Open Access Library Journal*, 11(8), 1-18.

<sup>16</sup> Wellens, K. (2003). The UN Security Council and new threats to the peace: back to the future. *Journal of conflict and security law*, 8(1), 15-70.

<sup>17</sup> Bellamy, A. J. (2016). UN Security Council. *The Oxford handbook of the responsibility to protect*, 249-268.

139 of the World Summit Outcome regarding the responsibility to protect civilians in armed conflict.<sup>18</sup>

In Resolution 1674, the Security Council recognized that the commission of systematic, severe, and widespread violations of international humanitarian and human rights law during armed conflicts may pose a threat to international peace and security. The Council also acknowledged that peace and security, development, and human rights are fundamental pillars of the United Nations system and essential foundations for collective security and well-being, emphasizing that these three elements are interconnected and mutually supportive.

Security Council Resolution 1674 adopts a comprehensive approach to protecting civilian populations, calling for the inclusion of specific protection measures in all peace processes, peace agreements, and post-conflict recovery and reconstruction plans.

However, there is still no consensus on how these principles should be implemented in practice. The resolution has yet to be fully put into action. Within the Security Council, significant differences remain between Western countries, which view gross atrocities as a threat to international peace and security, and states like China and Russia, which, although they agreed to the 2005 World Summit Outcome Document, continue to prioritize state sovereignty over the Responsibility to Protect doctrine.<sup>19</sup>

### 3.2. The Development of Red Cross Interest:

The International Committee of the Red Cross (ICRC) was established on February 17, 1863. Shortly after, on March 17, 1863, the Committee decided not to involve itself in civil wars and to focus solely on conflicts between European nations. They agreed that while their humanitarian efforts could eventually be expanded, for the time being, their attention should be limited to large-scale wars involving European powers.<sup>20</sup>

In 1871, Henry Dunant, the founder of the Red Cross, attempted to stop the execution of prisoners during the Paris Commune.<sup>21</sup> Even before World War I, the ICRC had called for the

---

<sup>18</sup> Van Steenberghe, R. (2014). The notions of the responsibility to protect and the protection of civilians in armed conflict: Detecting their association and its impact upon international law. *Goettingen Journal of International Law*, 6(1).

<sup>19</sup> Bellamy, A. J. (2006). Whither the responsibility to protect? Humanitarian intervention and the 2005 World Summit. *Ethics & International Affairs*, 20(2), 143-169.

<sup>20</sup> Minutes of the Sub-Committee of the Société d'Utilité Publique for the Relief of Wounded Combatants, meeting of March 17, 1863, reprinted in 1963 INT'L REV, of The Red Cross, p. 67.

<sup>21</sup> Chaponnière, C. (2022). *Henry Dunant: the man of the Red Cross*. Bloomsbury Publishing.

international regulation of civil wars. However, efforts by the ICRC and foreign Red Cross societies to provide humanitarian aid during internal conflicts were often seen by states as unwelcome interference in their internal affairs. This attitude persisted in 1912 when the Red Cross International Conference in Washington rejected a proposal for Red Cross societies to offer assistance to both sides in civil wars. Several countries, especially Russia, strongly opposed this idea, arguing that it was inappropriate for the Red Cross to commit itself to helping rebels whom their laws considered criminals.<sup>22</sup>

Despite earlier limitations, the International Committee of the Red Cross, together with national Red Cross societies, eventually managed to take modest action in addressing internal conflicts. A significant step came with the adoption of Resolution XIV at the 10th International Red Cross Conference in Geneva, 1921, which affirmed the right of all victims of civil wars to receive relief in accordance with the fundamental principles of the Red Cross. Later, in 1928, when the Statute of the ICRC was revised, this role was officially acknowledged, allowing the ICRC to act in line with the Geneva Conventions.<sup>23</sup>

### **3.3. The Path to the Conventions of 1949:**

After the Second World War, the ICRC gave serious attention to internal armed conflicts, focusing on the codification of legal principles to regulate them<sup>24</sup>. At the Preliminary Conference of National Red Cross Societies in 1946, a draft provision was introduced stating that in cases of armed conflict within a state, the Convention would be equally applied by both opposing parties—unless one explicitly refused to comply. This proposal aimed to legally establish the principle of reciprocity.

Despite concerns that many governments would strongly oppose it, the 1947 Conference of Government Experts offered some level of support. Their recommendation, however, diluted the original proposal by suggesting only the application of the Convention's principles, and even that only on a reciprocal basis. Still, the idea was not outright rejected. Building on this momentum, the ICRC prepared a new draft for consideration at the 1948 International Conference in Stockholm.

Although States did not adopt this draft, it eventually led to the inclusion of the so-called "Mini

---

<sup>22</sup> Finkel, S. (2017). The "Political Red Cross" and the Genealogy of Rights Discourse in Revolutionary Russia. *The Journal of Modern History*, 89(1), 79-118.

<sup>23</sup> Blondel, J. L. (1987). Getting Access to the Victims: Role and Activities of the ICRC. *Journal of peace research*, 24(3), 307-314.

<sup>24</sup> Cullen, A. (2005). Key developments affecting the scope of internal armed conflict in international humanitarian law. *Mil. L. Rev.*, 183, 66.

Conventions" found in Common Article 3. During this time, the Red Cross movement's efforts to remove the distinction between international and non-international armed conflicts gained increased support, particularly due to developments in the field of human rights and various UN General Assembly Resolutions addressing the protection of human rights during armed conflicts. In its revised form, the draft provision was ultimately presented at the 1949 Diplomatic Conference.

Determining which legal framework applies to a conflict—whether it falls under the rules governing international armed conflicts, primarily outlined in the four Geneva Conventions and Additional Protocol I, or under those applicable to non-international armed conflicts, found mainly in Common Article 3 of the Geneva Conventions and Additional Protocol II is a crucial preliminary question. This study focuses on the legal norms relating to non-international armed conflicts, examining in detail whether these rules are adequate to address the realities and challenges of contemporary conflicts around the world.

Two basic laws govern the situation of Non-international armed conflicts: Common Article 3 of Four Geneva Conventions 1949 and Additional Protocol II 1977.

#### **3.4. Common Article 3 of the four Geneva Conventions:**

Common Article 3 of the four Geneva Conventions of 1949 is often referred to as the "Convention in Miniature"<sup>25</sup> because it is the only provision within the Conventions that explicitly applies to non-international armed conflicts. It stands as one of the most significant outcomes of the 1949 Diplomatic Conference and represents the first international legal provision addressing internal armed conflicts. This article seeks to extend the humanitarian principles found in all four Geneva Conventions to parties engaged in non-international conflicts. It sets forth minimum standards for the protection and humane treatment of civilians, which must be upheld by all parties to such conflicts. Among its key protections, Common Article 3 prohibits violence to life, including murder, mutilation, cruel treatment, and torture, thereby offering vital safeguards for civilians during internal armed conflict.

The term non-international armed conflict is defined negatively in Common Article 3 of the Four Geneva Conventions as "an armed conflict not of an international character." When a non-state armed group is involved in hostilities, the situation is generally classified as a non-international armed conflict. For such a classification, one party must be a state, engaged in conflict with an organized armed group; however, for International Humanitarian Law (IHL)

---

<sup>25</sup> Elder, D. A. (1979). The historical background of common Article 3 of the Geneva Convention of 1949. *Case W. Res. J. Int'l L.*, 11, 37.

to apply through Additional Protocol II, the state must be a signatory to that Protocol. Additionally, the non-state armed group must operate under a responsible command structure. As observed by M. Gandhi, Legal Officer<sup>26</sup> viewed that

*“The humanitarian law applicable to war or international armed conflict is more readily discernible today than the humanitarian law applicable to localized wars or noninternational armed conflicts...It has become imperative to examine the humanitarian law applicable in the second situation, as the traditional mode of conducting war has undergone a rapid change and most of the wars today remain undeclared, throwing a question as to the scope of humanitarian law applicable to that situation...Common article 3 appears to have been constructed ambiguously with a view to achieve a delicate compromise acceptable to states which are in favour of the restrictive application of humanitarian law to non-international armed conflict. However recent efforts to expand the scope of common article 3 by national legislation and through judicial interpretation by national courts offer much more protection to the victims of non-international armed conflicts than its implementation through international ad-hoc tribunals.”*

The issue of establishing minimum protections for victims of non-international armed conflicts was carefully discussed and debated by states, leading to the adoption of the 1949 Geneva Conventions. The intention behind the four Conventions is that the Hague and Geneva rules govern international armed conflicts, while Common Article 3 of the 1949 Geneva Conventions and Additional Protocol II specifically address internal armed conflicts.

The second paragraph of Common Article 3 states that “an impartial humanitarian organization, such as the ICRC, may offer its services to the Parties to the conflict,” and that these Parties should also strive to implement, through special agreements, all or part of the other provisions of the Convention. It further clarifies that “the application of these provisions shall not affect the legal status of the Parties to the conflict.”

### **3.5. Additional Protocol II of 1977:**

For a quarter of a century, Common Article 3 was the only rule addressing non-international armed conflicts. However, there was a need for amendments or clarifications because, according to the Official Records of the Diplomatic Conference, the protection provisions in Common Article 3 proved insufficient when tested and required further detail and completion.

---

<sup>26</sup> M. GANDHI Legal Officer (Grade-I), Ministry of External Affairs, Legal & Treaties Division, Government of India, New Delhi expressed his views in the “NOTES AND COMMENTS ON COMMON ARTICLE 3 OF GENEVA CONVENTIONS, 1949 IN THE ERA OF INTERNATIONAL CRIMINAL TRIBUNAL”

Since 1971, experts from governments and the Red Cross consulted by the ICRC have emphasized the urgent necessity to strengthen the protection of victims in non-international armed conflicts through the advancement of international humanitarian law relevant to these situations.<sup>27</sup>

Consequently, a decision was made to amend the law. After numerous meetings involving "Governmental Experts" and "ICRC representatives," drafts for two additional protocols were prepared and presented at the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, held in Geneva from 1974 to 1977.<sup>28</sup>

At the Diplomatic Conference, Article 1(4) of Protocol I was introduced, which broadens the scope of the instrument beyond traditional international armed conflicts to also cover "armed conflicts in which peoples are fighting against colonial domination, alien occupation, and racist regimes in the exercise of their right to self-determination," thereby reclassifying a category of internal conflicts as international armed conflicts. It has been argued that such conflicts should be included under Additional Protocol II rather than Protocol I<sup>29</sup>. However, conflicts involving national liberation are now fully regulated by International Humanitarian Law, with Article 1 of Additional Protocol II clearly stating that the conflicts mentioned in Article 1 of Protocol I fall outside its scope.

### **3.5.1. The Contents of Additional Protocol II:**

Article 3 warrants careful consideration before assessing the provisions of Additional Protocol II, particularly those outlined in Part II on 'Humane Treatment'<sup>30</sup>, Part III on 'Wounded, Sick and Shipwrecked'<sup>31</sup>, and Part IV on 'Civilian Population'<sup>32</sup>. It serves as a protective clause, reflecting the concerns of several delegations that the instrument might be used as a justification for interference in a state's internal affairs.

Article 3(1) thus states that the Protocol cannot be used to undermine "the sovereignty of a State or the responsibility of the government, by all legitimate means, to maintain or restore law and order within the State or to protect its national unity and territorial integrity." Article

---

<sup>27</sup> Mrs Bujard (ICRC) in, "Official Records of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, Geneva, (1974- 1977), (Berne, 1978) CDDH/I/SR.22; VIII, p.201".

<sup>28</sup> For the text of the Draft Protocols see Official Records, vol. I, part 3.

<sup>29</sup> Gerald I. A. D. Draper, 'Wars of National Liberation and War Criminality', in, *Restraints on War*, Michael Howard ed., (Oxford University Press, 1979), 135 at 150

<sup>30</sup> Articles 4 - 6.

<sup>31</sup> Articles 7 -12.

<sup>32</sup> Articles 13 -18. Despite the title of Part IV, Parts II and III are of course equally applicable to civilians.

3(2) further specifies that no intervention, whether direct or indirect, in the internal or external affairs of the State during the conflict can be justified by the Protocol. A question remains whether this prohibition also extends to international organizations.

Certainly, some delegations were concerned that Article 3(2) might limit the United Nations' ability to act in maintaining "international peace and security." However, this is not the case. Article 3 of Protocol II prevents the Protocol from being used as a justification for intervention, but it does not affect the authority of the Security Council.<sup>33</sup> The UN Charter itself provides the legal basis for UN actions, rather than the Additional Protocols. Therefore, UN intervention remains permissible. In simple terms, Article 3 means that no new grounds for intervention are introduced by Additional Protocol II, but existing grounds are not excluded either.

**(i) Humane Treatment:**

The concept of "humane treatment" is addressed in three comprehensive and detailed Articles: Article 4, which covers fundamental guarantees; Article 5, which focuses on persons deprived of their liberty; and Article 6, which outlines judicial guarantees.

**(ii) Fundamental Guarantees:**

Article 4 sets out what are considered "the most generally accepted principles of civilization" and explicitly applies to civilians, defined as persons who do not directly participate or have ceased participating in hostilities. The Article mandates that these non-combatants must always be treated humanely. It goes on to provide several examples that address concerns similar to those in paragraph 1 of Common Article 3. However, Article 4 closely mirrors the corresponding provisions found in Additional Protocol I.

While Common Article 3 forms the foundation of the provision, Article 4(2) introduces several new elements. Acts such as "collective punishments, terrorism, slavery, pillage, rape, enforced prostitution, and indecent assault" are not mentioned in Common Article 3, but Protocol II explicitly prohibits all of these, including threats to commit any of these offenses under Article 4. Additionally, Article 4(3) offers specific and detailed protections for children.

Children are entitled to receive education during wartime and efforts must be made to reunite families temporarily separated. Recruitment of children under the age of fifteen into armed forces or groups is prohibited, and they are not allowed to participate in hostilities. Even if children under fifteen take direct part in hostilities

---

<sup>33</sup> Junod, S. (1983). Additional Protocol II: history and scope. *Am. UL Rev.*, 33, 29.

and are captured, the special protections provided by this Article still apply to them. Additionally, children must be temporarily relocated from conflict zones to safer areas within the country, ensuring they are accompanied by individuals responsible for their safety and well-being.<sup>34</sup>

These provisions are not based on Common Article 3 but are instead derived from rules found in Geneva Convention IV, which provides various protections for children under the ages of fifteen or eighteen. Importantly, one particular provision extends protection beyond those covered in the first sentence of Article 4(1)<sup>35</sup>; the final sentence of paragraph 1 explicitly prohibits issuing orders that no survivors be left.

**(iii) Persons Whose Liberty is Restricted:**

Common Article 3 does not specifically address situations of internment or detention, but the general standard of humane treatment in Article 3(1) applies to all individuals not involved in hostilities, including detainees. Therefore, Article 5 of Protocol II is an important provision, incorporating several stricter standards drawn from Conventions III and IV as well as the International Covenant on Civil and Political Rights (ICCPR). It applies alongside the broader protections of Article 4 and covers persons deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained.

The Detaining Power is required to provide protection at two levels. The first, outlined in paragraph 1, sets out minimum standards that must be met in all cases, covering essential needs such as medical care for the sick, food and water supply, access to relief, and freedom of religion. In contrast, paragraph 2 addresses matters deemed less critical—such as accommodation, communication, and location—which must be respected only to the extent possible given the detainees' circumstances. Notably, paragraph 2(e), which seems intended to prohibit medical experiments on detainees or internees, falls within this second category. However, it has been argued that this phrasing should not be interpreted as allowing arbitrary denial of these rights, as the clause “within the limits of their capabilities” should not justify withholding the protections guaranteed under Article 5(2).

**(iv) Penal Prosecutions:**

Article 6 addresses judicial guarantees, which are essential components of any

---

<sup>34</sup> Article 4(3)

<sup>35</sup> Which provides that human treatment is only to be afforded to those who do not take a direct part or who have ceased to take part in hostilities?”

“humane legal system.” According to the 1987 Commentary, these judicial guarantees hold particular importance because every person is entitled to a fair and regular trial regardless of the circumstances. The guarantees outlined in this article apply to both stages of legal proceedings: the preliminary investigation and the trial. Similar to Common Article 3, Protocol II preserves the authority of established powers to prosecute, try, and convict members of armed forces and civilians accused of offenses related to the armed conflict. However, such situations often involve the suspension of constitutional protections, the enactment of special laws, and the establishment of special courts.

The principle entails that “the accused must be informed of the specifics of the alleged offense; that conviction should be based on individual responsibility; the principles of *nullum crimen sine lege* (‘no crime without law’), the presumption of innocence; and the right of the accused to be present at trial without being compelled to testify.” Some provisions provide detailed explanations of the measures included in Common Article 3(1)(d), further shaped by Geneva Conventions III and IV, the ICCPR, and Article 75(4) of Additional Protocol I, most of which are widely recognized as applicable to non-international armed conflicts as well.

**(v) The Wounded, Sick, and Shipwrecked:**

Common Article 3 contains only a brief directive stating that “the wounded and sick shall be collected and cared for,” without specifying how this should be implemented. Articles 7 and 8 of Additional Protocol II expand on Common Article 3 by requiring all feasible measures to search for victims. Part III applies to “all the wounded, sick and shipwrecked, whether or not they have taken part in the armed conflict.” While Articles 7 and 8 mainly elaborate on the provisions of Article 3(1)(2), Articles 9 to 12 introduce new legal provisions specifically for non-international armed conflicts, representing a clear advancement. Similar to relevant provisions in Additional Protocol I, these articles protect medical and religious personnel engaged in humanitarian operations during armed conflicts and mandate respect for the “distinctive emblem of the Red Cross,” which is not addressed in Common Article 3.

**(vi) The Civilian Population:**

Prior to Additional Protocol II, existing conventional international law did not provide adequate rules for the protection of civilians in non-international armed conflicts. Common Article 3 requires humane treatment at all times for those not directly participating in hostilities. Broadly speaking, this prohibits attacks against the civilian

population as a whole. In this context, Article 13 of Additional Protocol II is seen as a more detailed extension of Common Article 3's principles rather than an entirely new provision.

However, Article 3(1)(a) was primarily intended to protect civilians who are under the control of an opposing party, rather than the entire civilian population. Moir noted that, in contrast, the provisions of Protocol II seem to address all parties involved in the conflict, particularly those not in control of civilians.<sup>36</sup> He further observed that this places these provisions within the scope of Hague Law (i.e., a "law of war" approach) rather than Geneva Law. To this extent, it can be viewed as new law, although the principle of distinction found in the Hague Rules likely already formed part of customary international law as it applied to non-international armed conflicts.

#### **4. The Relationship between Additional Protocol II and Common Article 3:**

Common Article 3 does not provide as many details as Article 1 of the Protocol, which includes a specific list of conditions required for the Protocol's applicability. In fact, Additional Protocol II is considered 'developmental and supplemental' to Common Article 3. However, one commentary on the 1977 Additional Protocols cautions that this phrase should not be taken too literally, as it is the concept behind Article 3 that is developed and supplemented, rather than the article's actual provisions.<sup>37</sup>

Undoubtedly, in certain situations, the Protocol indirectly influences the interpretation of Common Article 3. As Georges Abi-Saab explains, both Part II on 'Humane Treatment' and Part III on the 'Sick, Wounded and Shipwrecked' provide more detailed and concrete elaborations of the general principles set out in Common Article 3, and can therefore be viewed as authoritative interpretations of those principles. Additionally, Part III concerning the protection of the 'civilian population' can also inform the interpretation of Common Article 3. Since Common Article 3 forms part of a law-making multilateral humanitarian treaty, it must be interpreted in light of its broader objectives and purpose, as well as according to the principle of international law that considers its evolving legal context—of which the Protocol is a component.<sup>38</sup>

---

<sup>36</sup> Moir, L. (2002). *The law of internal armed conflict* (Vol. 19). Cambridge University Press.

<sup>37</sup> Pilloud, C., Sandoz, Y., Swinarski, C., & Zimmermann, B. (Eds.). (1987). *Commentary on the additional protocols: of 8 June 1977 to the Geneva Conventions of 12 August 1949*. Martinus Nijhoff Publishers.

<sup>38</sup> Abi-Saab, G. (1988). *Non-international armed conflicts* (p. 224). na.

During the 1974-1977 Diplomatic Conference, several delegates expressed the personal view that Common Article 3 and Additional Protocol II would eventually be regarded as complementary, with state practice effectively elevating the scope of Common Article 3 to align materially with that of the Protocol. However, there is little concrete evidence to support this proposition.

Greenwood<sup>39</sup> has argued for a “lowering of the threshold” for applying Protocol II, stating that today it is hard to justify the higher threshold currently required. He points out that the provisions of Protocol II are purely humanitarian. For example, rules on caring for the wounded and sick should be accepted in any conflict, regardless of how intense it is. Likewise, the fundamental guarantees largely reflect human rights norms designed for normal situations, as well as the principles in Common Article 3, which already apply at a lower threshold.

The rules governing the conduct of hostilities differ somewhat, as they are adapted from Additional Protocol I. However, they are designed solely to protect the civilian population, and the restrictions they place on government forces trying to quell a rebellion are minimal. There is no logical reason why a government should be required to apply these limitations to its civilians only in the specific situations outlined in Article 1 of Additional Protocol II, rather than in all situations covered by Common Article 3, which more closely resemble normal conditions within a state.

## 5. Conclusion:

The legal framework governing non-international armed conflicts, particularly through Common Article 3 of the 1949 Geneva Conventions and Additional Protocol II of 1977, represents a significant evolution in international humanitarian law. These instruments mark a crucial recognition by the international community that the human suffering caused by internal conflicts demands protection standards comparable, though appropriately tailored, to those applicable in international armed conflicts. The historical development of the Red Cross’s involvement in internal conflicts underscores the gradual acceptance and codification of norms aimed at limiting the horrors of civil war, even amidst the enduring principle of state sovereignty.

---

<sup>39</sup>Greenwood, C. (2000). International humanitarian law (laws of war). In *The Centennial of the First International Peace Conference* (pp. 161-259)..

Common Article 3, often described as the “Convention in Miniature,” remains the foundational legal standard for the protection of victims in non-international armed conflicts. While its provisions are necessarily succinct and general, their enduring relevance lies in establishing minimum humanitarian guarantees during such conflicts, including prohibitions against violence to life and dignity, cruel treatment, and torture. However, the limitations of Common Article 3—particularly its brevity and somewhat ambiguous language—became evident over time as the nature and complexity of internal conflicts evolved. This prompted the need for a more detailed and robust legal instrument, which culminated in Additional Protocol II.

Additional Protocol II expanded upon Common Article 3 by elaborating specific protections related to humane treatment, judicial guarantees, the wounded and sick, and the civilian population. It notably introduced detailed provisions addressing vulnerable groups such as children and detainees, and prohibited a range of atrocities previously unmentioned in Common Article 3, including collective punishment, terrorism, and sexual violence. Importantly, the Protocol reaffirmed the delicate balance between humanitarian imperatives and respect for state sovereignty, clearly stipulating that it does not provide grounds for intervention in internal affairs beyond existing international law. This nuanced approach reflects the ongoing tension in international law between protecting human rights and respecting the territorial integrity of states.

Despite the advances embodied in Additional Protocol II, significant challenges remain in the application and enforcement of these legal norms. The threshold for the Protocol’s applicability, which requires a certain level of organization and intensity of conflict, excludes numerous violent internal situations that nonetheless result in severe human suffering. Moreover, while the Protocol sets out detailed humanitarian standards, its actual implementation is often hindered by political resistance, lack of state consent, or non-compliance by non-state armed groups. These realities raise important questions about the sufficiency of current legal frameworks to address the diverse and complex conflicts of the 21st century.

The relationship between Common Article 3 and Additional Protocol II also highlights the dynamic nature of international humanitarian law. While Additional Protocol II supplements and clarifies the principles of Common Article 3, the former’s more detailed provisions have influenced the interpretation and application of the latter, demonstrating how legal norms

evolve in response to changing circumstances and needs. Calls by scholars and practitioners for lowering the threshold for Protocol II's applicability further indicate a recognition that the protection of victims should not be contingent on rigid categorizations, but rather grounded in humanitarian necessity and practical realities.

In conclusion, the protection of victims in non-international armed conflicts remains a critical and evolving area of international humanitarian law. The development and interplay of Common Article 3 and Additional Protocol II provide a foundational legal framework that reflects a collective commitment to uphold human dignity amidst the chaos of internal warfare. Yet, the continued relevance of these instruments depends not only on their legal formulation but on their effective implementation, the political will of states, and the capacity of the international community to respond to emerging challenges. Future legal developments, potentially including expanded protections and clearer enforcement mechanisms, will be essential to ensure that humanitarian principles keep pace with the changing nature of conflict and continue to offer meaningful safeguards to those caught in the crossfire of internal violence.

#### REFERENCES

- 1) Abi-Saab, G. (1988). *Non-international armed conflicts* (p. 224). N/A.
- 2) Bellamy, A. J. (2006). Whither the responsibility to protect? Humanitarian intervention and the 2005 World Summit. *Ethics & International Affairs*, 20(2), 143–169.
- 3) Bellamy, A. J. (2016). UN Security Council. In *The Oxford handbook of the responsibility to protect* (pp. 249–268). Oxford University Press.
- 4) Blondel, J. L. (1987). Getting access to the victims: Role and activities of the ICRC. *Journal of Peace Research*, 24(3), 307–314.
- 5) Cassese, A. (1984). The Geneva protocols of 1977 on the humanitarian law of armed conflict and customary international law. *UCLA Pacific Basin Law Journal*, 3, 55.
- 6) Chaponnière, C. (2022). *Henry Dunant: The man of the Red Cross*. Bloomsbury Publishing.
- 7) Crawford, E. (2015). *Identifying the enemy: Civilian participation in armed conflict*. Oxford University Press.
- 8) Cullen, A. (2005). Key developments affecting the scope of internal armed conflict in international humanitarian law. *Military Law Review*, 183, 66.
- 9) Dinstein, Y. (2022). *The conduct of hostilities under the law of international armed conflict*. Cambridge University Press.

- 10) Draper, G. I. A. D. (1979). Wars of national liberation and war criminality. In M. Howard (Ed.), *Restraints on war* (pp. 135–150). Oxford University Press.
- 11) Elder, D. A. (1979). The historical background of common Article 3 of the Geneva Convention of 1949. *Case Western Reserve Journal of International Law*, 11, 37.
- 12) Finkel, S. (2017). The “Political Red Cross” and the genealogy of rights discourse in revolutionary Russia. *The Journal of Modern History*, 89(1), 79–118.
- 13) Gandhi, M. (n.d.). Notes and comments on Common Article 3 of Geneva Conventions, 1949 in the era of International Criminal Tribunal. Ministry of External Affairs, Government of India.
- 14) Greenwood, C. (2000). International humanitarian law (laws of war). In *The Centennial of the First International Peace Conference* (pp. 161–259).
- 15) Henckaerts, J. M., & Doswald-Beck, L. (Eds.). (2005). *Customary International Humanitarian Law*. ICRC.
- 16) Jean Pictet (Ed.). (1952). *Commentary to the Geneva Conventions of 12 August 1949, Volume 1*. ICRC.
- 17) Junod, S. (1983). Additional Protocol II: History and scope. *American University Law Review*, 33, 29.
- 18) Kolb, R. (2013). Human rights law and international humanitarian law between 1945 and the aftermath of the Teheran conference of 1968. In *Research handbook on human rights and humanitarian law* (pp. 35–52). Edward Elgar Publishing.
- 19) Leitenberg, M. (2006). *Deaths in wars and conflicts in the 20th century*. Cornell University, Peace Studies Program.
- 20) Mantilla, G. (2017). The origins and evolution of the 1949 Geneva Conventions and the 1977 Additional Protocols. [Unpublished manuscript].
- 21) Mikaberidze, A. (Ed.). (n.d.). Atrocities, massacres, and war crimes (p. 558). ABC-CLIO.
- 22) Moir, L. (2002). *The law of internal armed conflict* (Vol. 19). Cambridge University Press.
- 23) Mrs. Bujard (ICRC). (1978). In *Official Records of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, Geneva (1974–1977)* (Vol. CDDH/I/SR.22; VIII, p. 201). Bern.
- 24) Ntamwira, T. T., & Manirakiza, E. (2024). The role of the United Nations Security Council in the protection of civilians: An application of Resolution 1265 (1999) in the Democratic Republic of Congo. *Open Access Library Journal*, 11(8), 1–18.

- 25) Pilloud, C., Sandoz, Y., Swinarski, C., & Zimmermann, B. (Eds.). (1987). *Commentary on the additional protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*. Martinus Nijhoff Publishers.
- 26) Protocol Additional to the Geneva Conventions of August 12, 1949, and relating to the protection of victims of international armed conflicts (Protocol I), June 8, 1977, 1125 U.N.T.S. 3 [AP I].
- 27) Rogers, A. P. V. (1996). *Law on the battlefield* (pp. 144–145). Manchester University Press.
- 28) UN General Assembly. (1968). Resolution 2444 (XXIII). *Respect for Human Rights in Armed Conflicts*.
- 29) Van Steenberghe, R. (2014). The notions of the responsibility to protect and the protection of civilians in armed conflict: Detecting their association and its impact upon international law. *Goettingen Journal of International Law*, 6(1).
- 30) Wellens, K. (2003). The UN Security Council and new threats to the peace: Back to the future. *Journal of Conflict and Security Law*, 8(1), 15–70.
- 31) World Conference on Human Rights. (1968). *Resolution NO. XXIII entitled “Human Rights in Armed Conflicts”*. UN Doc A/CONF/32/41 (12 May 1968), 18.