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UNITED NATIONS HUMAN RIGHTS COMMITTEE

BACKGROUND GUIDE

AGENDA

Addressing Violations of International Humanitarian and Human Rights Law by State and Non-State Armed Actors in Contemporary Conflicts

Chairperson: Dhairaya Vasudeva

Letter from the Chairperson

Dear Participants,

It is our pleasure to preside over this simulation of the UN human rights council at The Solace MUN 2026.

This guide has been prepared with the idea that it will brief you about the issues at hand, and give you a good starting point for further research. So we request you to not see it as an end in itself in terms of preparation. Going beyond the scope of this guide during preparation is not only suggested but is a necessity if you wish to perform well.

As soon as you enter the committee, we would expect you to step in the shoes of a diplomat. This does not only mean being diplomatic and ensuring courtesy but also going the extra mile as all diplomats do. The simulation in question is not only a test of your research or your public speaking but your overall abilities. Your motive in this committee has to be to interact, indulge in logical debates which lead in the right direction and do as many things as you can - while understanding that you are sitting in a very flexible activity, where the concepts of 'right' and 'wrong' fade away.

Reiterating, you must use this document only as a reference point and make your own opinion based on your portfolio, along with the research, and practical application of the said research.

In case of any queries, feel free to contact us.

Best of luck! I look forward to seeing all of you soon.

Regards



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COMMITTEE OVERVIEW

The United Nations Human Rights Council: Mandate, Structure and Institutional Framework

The United Nations Human Rights Council (UNHRC) is the principal intergovernmental body within the United Nations system responsible for the promotion and protection of human rights across the globe. Established in 2006 through General Assembly Resolution 60/251, the Council represents the culmination of decades of institutional development aimed at creating a more effective international mechanism for addressing widespread human rights violations. Unlike judicial bodies that prosecute perpetrators or political organs that authorise coercive measures, the Human Rights Council occupies a unique position within the international legal order. Its primary responsibility lies in monitoring compliance with international human rights obligations, investigating violations, promoting dialogue and cooperation among states, developing international human rights norms, and strengthening accountability through independent investigative mechanisms.

The contemporary international system increasingly confronts conflicts characterised by mass displacement, widespread attacks against civilians, prolonged internal armed conflicts, transnational terrorism, and humanitarian emergencies of unprecedented scale. These developments have blurred traditional distinctions between peace and war, domestic and international conflict, and military and civilian spheres. Consequently, the Human Rights Council has assumed an increasingly prominent role in documenting violations committed by both state authorities and non-state armed actors, ensuring that humanitarian concerns remain central to international discourse even where political consensus proves elusive.

The significance of the Council extends far beyond the adoption of resolutions. Through its Special Procedures, Independent Fact-Finding Missions, Commissions of Inquiry, Universal Periodic Review, and technical assistance programmes, the Council has become one of the most active international institutions engaged in documenting violations of international humanitarian law and international human rights law. Its reports frequently serve as foundational evidence before international courts, treaty bodies, domestic judicial proceedings, and future accountability mechanisms. Consequently, an understanding of the Council's institutional framework is indispensable for delegates participating in this committee.



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Historical Evolution of the Human Rights Council

The origins of the Human Rights Council may be traced to the aftermath of the Second World War, when the international community sought to establish institutions capable of preventing the recurrence of atrocities witnessed during the Holocaust and other wartime crimes. The creation of the United Nations in 1945 represented not merely an effort to preserve international peace and security but also a recognition that lasting peace could not exist without the protection of fundamental human rights. The adoption of the Universal Declaration of Human Rights (UDHR) on 10 December 1948 marked the first comprehensive articulation of universal human rights standards applicable to every individual irrespective of nationality, ethnicity, religion, gender, or political affiliation. Drafted under the leadership of Eleanor Roosevelt and representatives from diverse legal traditions, the Declaration established a common standard of achievement that would subsequently inspire legally binding treaties including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

To oversee the progressive development of these standards, the United Nations established the Commission on Human Rights in 1946 as a functional commission of the Economic and Social Council (ECOSOC). For six decades, the Commission played a pivotal role in developing international human rights law. It supervised negotiations leading to numerous international conventions, established early mechanisms for monitoring state compliance, and provided a forum for discussing widespread violations occurring across the world.

Despite these achievements, the Commission increasingly faced criticism throughout the latter half of the twentieth century. States accused one another of selective enforcement, political bias, and double standards. Governments with poor domestic human rights records frequently secured membership, thereby undermining the institution's credibility. The Commission was criticised for devoting disproportionate attention to certain geopolitical situations while neglecting others of equal or greater humanitarian concern. Procedural inefficiencies and prolonged political negotiations often prevented timely responses to emerging crises.

Recognising these institutional shortcomings, Secretary-General Kofi Annan proposed comprehensive reform of the United Nations human rights machinery in his landmark report *In Larger Freedom* published in 2005. Annan argued that the credibility of the United Nations depended upon strengthening its human rights institutions to the same extent that it prioritised peace, security, and development. Human rights, he argued, constituted one of the three foundational pillars of the United Nations and therefore required an institution possessing greater legitimacy, permanence, and responsiveness than the existing Commission.

These recommendations culminated in the adoption of General Assembly Resolution 60/251 on 15 March 2006, formally dissolving the Commission on Human Rights and establishing the Human Rights Council as its successor. The new body was granted expanded powers, enhanced procedures, and a stronger institutional mandate designed to improve both legitimacy and effectiveness. Membership would henceforth be determined through direct election by the General Assembly, while all Member States would undergo periodic review of their human rights records under an innovative mechanism known as the Universal Periodic Review.

The establishment of the Human Rights Council reflected a broader transformation within international law. Human rights were no longer regarded solely as matters falling within domestic jurisdiction but increasingly recognised as legitimate concerns of the international community. Sovereignty remained an essential principle of international law; however, it became progressively understood as carrying corresponding responsibilities toward populations residing within national territory.



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Mandate of the Human Rights Council

The Human Rights Council derives its authority principally from General Assembly Resolution 60/251, which entrusts it with the responsibility of promoting universal respect for the protection of all human rights and fundamental freedoms without distinction of any kind. This mandate encompasses civil, political, economic, social, and cultural rights, recognising that all categories of human rights are universal, indivisible, interdependent, and mutually reinforcing.

Unlike judicial institutions such as the International Criminal Court or the International Court of Justice, the Human Rights Council does not determine criminal guilt or issue legally binding judgments. Instead, it functions primarily as a political and investigative body that facilitates international scrutiny, gathers evidence, establishes facts, develops normative standards, and encourages states to comply voluntarily with their international obligations.

Among its principal responsibilities is the investigation of gross and systematic violations of human rights wherever they occur. When credible allegations emerge concerning widespread abuses—including extrajudicial killings, torture, enforced disappearances, arbitrary detention, attacks against civilians, or violations of international humanitarian law—the Council may convene special sessions, establish independent investigative mechanisms, appoint Special Rapporteurs, or mandate fact-finding missions tasked with documenting events and reporting their findings to the international community.

The Council additionally promotes technical cooperation between Member States. Many governments experiencing institutional weakness, post-conflict reconstruction, or transitional political processes request assistance in strengthening judicial systems, improving domestic legislation, training security forces, protecting vulnerable populations, or implementing treaty obligations. Through cooperation with the Office of the High Commissioner for Human Rights, the Council provides advisory services intended to improve long-term compliance with international standards rather than relying exclusively upon condemnation.

Another central aspect of the Council's mandate concerns the development of international human rights norms. Since its establishment, the Council has contributed significantly to discussions regarding business and human rights, digital privacy, climate change, artificial intelligence, discrimination, minority rights, indigenous peoples, and protection of journalists and humanitarian workers. Although many of its resolutions are not legally binding, they frequently shape customary international law, influence state practice, and contribute to the progressive development of international legal standards.

The Council also serves as an important forum for dialogue among governments, international organisations, civil society, and independent experts. Unlike judicial proceedings, which necessarily focus upon determining legal responsibility, Council debates encourage broader discussions concerning prevention, institutional reform, reconciliation, humanitarian assistance, and capacity-building. This emphasis upon dialogue reflects the understanding that sustainable protection of human rights depends not solely upon punishment but equally upon strengthening institutions capable of preventing future violations.



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The Legal Architecture of Discrimination

The Human Rights Council consists of forty-seven Member States elected directly by the United Nations General Assembly through secret ballot. Members serve staggered three-year terms and are distributed according to equitable geographical representation. African States occupy thirteen seats, Asia-Pacific States thirteen seats, Latin American and Caribbean States eight seats, Western European and Other States seven seats, and Eastern European States six seats.

Election to the Council requires an absolute majority of the General Assembly, thereby encouraging candidates to secure broad international support. States seeking election are expected to make voluntary pledges concerning their commitment to protecting human rights and cooperating with the Council's mechanisms. Furthermore, Resolution 60/251 provides that members elected to the Council shall uphold the highest standards in the promotion and protection of human rights and shall fully cooperate with the Council.

A unique safeguard introduced during the Council's creation permits the General Assembly to suspend the membership of any state that commits gross and systematic violations of human rights. This provision has been invoked sparingly, most notably in 2011 following widespread violence in Libya and again in 2022 concerning the Russian Federation after the invasion of Ukraine. Although politically significant, such suspensions remain exceptional owing to the substantial majority required within the General Assembly.

The presidency of the Council rotates annually among the five regional groups. Supporting the President are four Vice-Presidents who collectively constitute the Bureau responsible for administrative coordination, procedural oversight, and preparation of Council sessions. Membership in the Council frequently attracts political controversy. Governments accused of serious human rights violations have, on occasion, secured election despite criticism from international civil society organisations. Critics argue that this undermines institutional credibility, while defenders maintain that universal participation encourages dialogue and prevents the politicisation that might arise from excluding controversial governments. This enduring tension between universality and credibility remains one of the defining institutional challenges confronting the Council today.



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INTRODUCTION TO THE AGENDA

Armed conflict has remained an enduring feature of international relations throughout history, evolving from conventional interstate wars to increasingly fragmented, transnational, and asymmetric forms of violence. While the methods, technologies, and actors involved in warfare have transformed significantly over the centuries, one constant has remained: civilians continue to bear the greatest humanitarian burden. Contemporary conflicts are no longer confined to battlefields between sovereign states. Instead, they are characterized by prolonged civil wars, military occupations, proxy conflicts, insurgencies, counter-terrorism operations, and the growing involvement of non-state armed actors, all of which have significantly complicated the application and enforcement of international law.

The unprecedented devastation witnessed during the nineteenth and twentieth centuries prompted the international community to develop legal frameworks aimed at regulating the conduct of hostilities and protecting individuals affected by war. Early efforts began with the Lieber Code (1863), which introduced principles limiting unnecessary suffering during armed conflict, followed by the establishment of the International Committee of the Red Cross (ICRC) and the adoption of the First Geneva Convention (1864). These developments laid the foundation for what would later become International Humanitarian Law (IHL). The Hague Conventions of 1899 and 1907 further expanded these protections by regulating the methods and means of warfare, the treatment of prisoners of war, military occupation, and the rights and duties of neutral states.

The humanitarian catastrophes of the First and Second World Wars exposed the inadequacy of existing legal protections and fundamentally reshaped the international legal order. Following the establishment of the United Nations in 1945, the promotion and protection of human rights became one of its principal objectives. The adoption of the Universal Declaration of Human Rights (1948) established a universal standard affirming that all individuals possess inherent rights and freedoms irrespective of nationality, race, religion, or political affiliation. Shortly thereafter, the Four Geneva Conventions of 1949 comprehensively codified protections for wounded soldiers, prisoners of war, civilians, and populations living under military occupation, becoming the cornerstone of modern International Humanitarian Law. These protections were further strengthened through the Additional Protocols of 1977 and 2005, which adapted humanitarian law to evolving forms of armed conflict, particularly non-international armed conflicts.



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Parallel to the development of humanitarian law, the latter half of the twentieth century witnessed the emergence of a robust international human rights framework. Treaties such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention against Torture (CAT), the Convention on the Rights of the Child (CRC), and the Convention on the Prevention and Punishment of the Crime of Genocide established legally binding obligations upon states to respect, protect, and fulfil the rights of individuals under their jurisdiction. Unlike International Humanitarian Law, which applies specifically during armed conflict, International Human Rights Law (IHRL) continues to apply at all times, including during situations of armed conflict, subject only to limited and clearly defined derogations.

Despite this extensive legal framework, the twenty-first century has witnessed a dramatic transformation in the character of warfare. Modern conflicts increasingly involve multiple state and non-state actors operating simultaneously across national borders, often with competing political, ideological, ethnic, or religious objectives. Civil wars frequently become internationalized through foreign military intervention, proxy forces, or the participation of transnational extremist organizations. In addition, technological advancements—including cyber operations, autonomous weapons systems, artificial intelligence, and unmanned aerial vehicles—have introduced new legal and ethical challenges that existing legal frameworks struggle to address comprehensively.

The participation of non-state armed actors has emerged as one of the defining features of contemporary conflicts. Insurgent groups, terrorist organizations, separatist movements, militias, private military companies, and de facto authorities increasingly exercise military and administrative control over territory and civilian populations without possessing the legal status of sovereign states. Although such actors are not parties to international treaties in the traditional sense, customary International Humanitarian Law, Common Article 3 of the Geneva Conventions, and Additional Protocol II impose fundamental humanitarian obligations upon organized armed groups participating in armed conflicts. Nevertheless, ensuring compliance and accountability remains exceptionally challenging due to the absence of centralized command structures, limited international recognition, and restricted access to conflict-affected regions.



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Contemporary conflicts have demonstrated that violations of International Humanitarian Law and International Human Rights Law are no longer isolated incidents but frequently occur as part of systematic patterns of violence affecting entire civilian populations. Deliberate attacks on hospitals, schools, humanitarian workers, refugee camps, and civilian infrastructure have become increasingly common. Practices such as torture, arbitrary detention, enforced disappearances, collective punishment, starvation as a method of warfare, forced displacement, sexual violence, recruitment of child soldiers, hostage-taking, and the use of human shields continue to be documented by international investigative bodies across multiple conflict zones.

Within this complex legal and humanitarian landscape, the United Nations Human Rights Council (UNHRC) plays a critical role in promoting accountability and strengthening compliance with international law. Through mechanisms including Special Procedures, Independent International Fact-Finding Missions, Commissions of Inquiry, Universal Periodic Review, and technical assistance programmes, the Council serves as one of the international community's principal institutions for documenting violations, preserving evidence, monitoring compliance, and supporting efforts aimed at preventing future atrocities. Although it does not possess judicial authority comparable to the International Criminal Court, the Council's investigations frequently provide the evidentiary basis upon which subsequent legal and diplomatic actions are undertaken.

This agenda therefore invites delegates to examine not only the legal obligations governing state and non-state actors but also the institutional, political, and operational challenges that continue to impede effective implementation of international law. Delegates must critically evaluate existing accountability mechanisms, identify emerging legal gaps, and explore practical measures capable of strengthening the protection of civilians while ensuring that perpetrators of serious violations are held accountable in accordance with international law.



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PROBLEM STATEMENT

Despite the existence of one of the most comprehensive legal regimes in international law, violations of International Humanitarian Law (IHL) and International Human Rights Law (IHRL) continue to occur on an alarming scale across contemporary conflicts. Nearly every major armed conflict of the twenty-first century has been accompanied by credible allegations of war crimes, crimes against humanity, and serious human rights abuses committed by both state and non-state armed actors. The persistence of these violations highlights a fundamental disconnect between the development of international legal norms and their effective implementation on the ground. While international treaties establish clear legal obligations, enforcement remains constrained by political divisions, institutional limitations, evolving methods of warfare, and the increasingly fragmented nature of modern conflicts.

One of the most significant challenges confronting the international community is the changing character of armed conflict itself. Contemporary warfare rarely conforms to the traditional model of interstate conflict envisioned during the drafting of the Geneva Conventions. Instead, conflicts increasingly involve multiple armed groups operating simultaneously with foreign military intervention, proxy forces, private military companies, transnational terrorist organizations, and decentralized command structures. The coexistence of numerous actors often complicates the attribution of responsibility for violations, making it difficult to determine whether unlawful conduct is attributable to a sovereign state, an organized armed group, or an intermediary operating under external support. These complexities frequently delay investigations, hinder accountability, and contribute to prolonged impunity.

Equally concerning is the continued erosion of the distinction between military objectives and civilian populations. Contemporary conflicts are increasingly fought within densely populated urban environments where hospitals, schools, residential areas, places of worship, humanitarian facilities, and critical infrastructure are located in close proximity to military objectives. As a result, civilians are exposed to significantly greater risks arising from aerial bombardment, siege warfare, explosive weapons with wide-area effects, and prolonged urban combat. Humanitarian organizations have repeatedly documented attacks against medical facilities, educational institutions, humanitarian convoys, and personnel protected under international law. Such incidents not only result in immediate civilian casualties but also undermine long-term access to healthcare, education, food security, and humanitarian assistance.



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The involvement of non-state armed actors presents additional legal and operational challenges. Many organized armed groups deliberately disregard established humanitarian norms by recruiting child soldiers, employing human shields, carrying out hostage-taking, committing acts of sexual violence, and targeting civilians to achieve political or ideological objectives. Although Common Article 3 of the Geneva Conventions and customary International Humanitarian Law impose obligations upon these groups, enforcement mechanisms remain significantly weaker than those applicable to sovereign states. Limited territorial access, lack of institutional cooperation, and the absence of internationally recognized governmental structures frequently impede investigations and accountability efforts.

The increasing use of emerging technologies further complicates the application of existing legal frameworks. Autonomous weapons systems, artificial intelligence, cyber operations, armed drones, and digital surveillance have transformed the conduct of military operations while raising novel questions concerning attribution, proportionality, civilian protection, and command responsibility. Existing treaty law was largely developed in response to conventional forms of warfare and therefore provides limited guidance regarding the humanitarian implications of these rapidly evolving technologies. The absence of comprehensive international regulation creates legal uncertainty while increasing the risk of inconsistent state practice.

Accountability remains one of the most persistent weaknesses within the contemporary international legal system. Institutions including the International Criminal Court, the International Court of Justice, domestic courts exercising universal jurisdiction, and investigative mechanisms established by the United Nations have made significant contributions toward combating impunity. Nevertheless, jurisdictional limitations, insufficient state cooperation, political considerations, evidentiary challenges, and resource constraints frequently prevent timely investigations and prosecutions. In many situations, perpetrators continue to operate with relative impunity while victims remain without effective remedies or access to justice.

Political divisions within the international community further undermine the consistent enforcement of international law. Geopolitical rivalries, competing national interests, and the selective application of international legal principles often weaken collective responses to humanitarian crises. Allegations of double standards and inconsistent accountability have contributed to declining confidence in international institutions and raised concerns regarding the impartiality of global governance mechanisms. Such perceptions not only affect the legitimacy of accountability processes but also discourage cooperation with investigative bodies established under the United Nations system.



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The humanitarian consequences of these challenges are profound. According to successive reports issued by United Nations agencies, the International Committee of the Red Cross, and independent investigative mechanisms, millions of civilians remain displaced by armed conflict, humanitarian access continues to be obstructed, and vulnerable populations—including women, children, older persons, refugees, internally displaced persons, and persons with disabilities—remain disproportionately affected by violence. Conflict-related food insecurity, destruction of essential infrastructure, disruption of healthcare systems, and widespread psychological trauma continue to exacerbate humanitarian emergencies long after active hostilities have ceased.

Addressing these challenges requires more than the reaffirmation of existing legal obligations. It necessitates strengthening compliance mechanisms, enhancing international cooperation, improving civilian protection, adapting legal frameworks to emerging technologies, reinforcing accountability for violations committed by both state and non-state actors, and ensuring that humanitarian considerations remain central to military and political decision-making. Within this context, the United Nations Human Rights Council serves as an indispensable forum for promoting dialogue, documenting violations, supporting independent investigations, and advancing institutional reforms aimed at safeguarding human dignity during armed conflict. Delegates are therefore called upon not only to evaluate the effectiveness of existing international legal mechanisms but also to explore innovative, practical, and legally sound approaches capable of addressing the evolving humanitarian challenges presented by contemporary conflicts.



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LEGAL LANDSCAPE

I. Defining the Parties to Armed Conflict

Understanding the legal obligations arising during armed conflict requires first identifying the actors to whom these obligations apply. Contemporary conflicts rarely resemble conventional wars fought exclusively between the regular armed forces of sovereign states. Instead, they increasingly involve a diverse range of participants, including governments, organized armed groups, terrorist organizations, foreign fighters, private military companies, and de facto authorities exercising varying degrees of territorial control. The coexistence of multiple actors operating under different command structures has fundamentally transformed the application of International Humanitarian Law (IHL) and International Human Rights Law (IHRL), raising complex questions concerning legal responsibility, attribution of conduct, and accountability for violations.

Historically, international law regulated only the conduct of sovereign states. Classical international law viewed states as the exclusive subjects of international legal obligations, while individuals and armed groups remained largely outside its scope. This approach reflected the Westphalian conception of sovereignty, under which states possessed exclusive authority over matters occurring within their territory. However, the nature of armed conflict has evolved substantially over the past century. Internal conflicts, transnational terrorism, proxy warfare, and the fragmentation of state authority have resulted in situations where non-state entities exercise military, political, and administrative functions traditionally associated with governments. Consequently, international law has progressively expanded its regulatory framework to impose obligations upon organized armed groups while preserving the primary responsibility of states under international law.



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STATE ACTORS

State actors comprise sovereign governments and institutions exercising authority on behalf of a recognized state. This includes national armed forces, police services, intelligence agencies, border security forces, paramilitary organizations formally incorporated into governmental structures, and any entity acting under the effective control, direction, or instructions of the state. Under international law, states remain the primary duty bearers responsible for respecting, protecting, and fulfilling human rights while simultaneously complying with the obligations imposed by International Humanitarian Law during armed conflict.

State responsibility extends beyond the actions of regular military personnel. Conduct undertaken by government officials, public authorities, security services, and affiliated militias may all be attributable to the state where sufficient legal or factual control exists. The International Court of Justice, particularly in the *Military and Paramilitary Activities in and against Nicaragua* case, emphasized that international responsibility may arise where states exercise effective control over armed groups operating on their behalf. Similarly, the Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA), adopted by the International Law Commission in 2001, establish that states bear international responsibility for acts attributable to them that violate international legal obligations. States are simultaneously bound by International Humanitarian Law during armed conflict and International Human Rights Law at all times. While certain human rights obligations may be lawfully derogated during public emergencies under treaties such as the International Covenant on Civil and Political Rights (ICCPR), numerous rights—including the prohibition of torture, slavery, genocide, and arbitrary deprivation of life—remain non-derogable. Consequently, governments engaged in military operations remain legally obligated to distinguish between civilians and combatants, protect civilian populations, facilitate humanitarian assistance, investigate alleged violations committed by their personnel, and provide effective remedies where abuses occur.



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NON-STATE ACTORS

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Occupation

Military occupation represents a distinct legal regime within International Humanitarian Law. Occupation arises when the armed forces of one state exercise effective control over territory belonging to another state without acquiring sovereign title. The legal test is one of effective control, rather than formal annexation or political recognition. Occupation law seeks to balance military necessity with the protection of the civilian population living under foreign authority.

The principal legal instruments governing occupation include the Hague Regulations of 1907, the Fourth Geneva Convention of 1949, Additional Protocol I, and customary international law. These instruments require the occupying power to maintain public order and civil life while respecting, as far as possible, the existing laws of the occupied territory. Civilians under occupation continue to enjoy protection against collective punishment, forced displacement, unlawful detention, reprisals, and destruction of civilian property unless absolutely required by imperative military necessity.

Occupation does not transfer sovereignty to the occupying power. Instead, the occupying authority exercises temporary administrative control while remaining bound by extensive legal obligations toward the protected population. Numerous contemporary legal debates concerning occupation involve questions of settlement policies, humanitarian access, freedom of movement, demographic changes, and the application of both International Humanitarian Law and International Human Rights Law within occupied territories.



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II. Classification of Armed Conflicts

The classification of an armed conflict constitutes one of the most fundamental determinations under International Humanitarian Law (IHL), as it establishes the legal framework governing the conduct of hostilities, the protections afforded to affected populations, and the obligations imposed upon the parties involved. While the humanitarian principles underlying IHL apply universally, the specific treaty provisions and legal obligations applicable to a conflict vary depending upon its classification. Consequently, correctly identifying the nature of an armed conflict is essential not only for legal accountability but also for ensuring that humanitarian protections are effectively implemented.

Historically, armed conflicts were predominantly viewed as wars fought between sovereign states. However, the geopolitical transformations of the twentieth and twenty-first centuries have significantly altered the nature of warfare. Contemporary conflicts increasingly involve insurgencies, civil wars, foreign interventions, proxy forces, multinational coalitions, transnational terrorist organisations, and private military companies. These developments have blurred the traditional distinction between interstate and internal conflicts, creating situations in which multiple legal regimes may apply simultaneously. International courts have therefore developed increasingly sophisticated jurisprudence to determine when an armed conflict exists and how it should be classified under international law.

The Geneva Conventions of 1949 establish two principal categories of armed conflict: International Armed Conflicts (IACs) under Common Article 2 and Non-International Armed Conflicts (NIACs) under Common Article 3. Additional Protocols I and II further elaborate upon these classifications while customary international law has evolved to address emerging forms of warfare that were not envisaged when the treaties were originally drafted.



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Proxy Warfare

Proxy warfare has become an increasingly prominent feature of contemporary international relations. Rather than engaging directly in armed confrontation, states frequently provide military, financial, logistical, or intelligence support to allied armed groups operating within another state's territory. Such support may include the provision of weapons, training, operational planning, intelligence sharing, or financial assistance. Proxy warfare enables states to pursue strategic objectives while limiting direct military involvement and reducing political costs associated with conventional interstate warfare.

From a legal perspective, proxy warfare raises complex questions concerning the attribution of responsibility. The International Court of Justice, in the Nicaragua judgment, introduced the effective control test, holding that the conduct of an armed group may be attributable to a state only where that state exercises effective control over the specific military operations giving rise to the alleged violations. Subsequently, the International Criminal Tribunal for the Former Yugoslavia adopted the broader overall control test in Tadić for determining the international character of certain conflicts. Although these approaches differ in scope and purpose, both illustrate the legal complexities associated with state involvement through intermediaries.

Proxy warfare often complicates humanitarian protection because multiple actors operate simultaneously under overlapping chains of command. Determining responsibility for violations committed by proxy forces therefore remains one of the most challenging issues confronting contemporary international law.



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Hybrid Warfare

Hybrid warfare refers to the coordinated use of conventional military force alongside irregular tactics, cyber operations, disinformation campaigns, economic coercion, sabotage, and proxy actors to achieve strategic objectives. Unlike traditional warfare, hybrid conflicts deliberately blur the distinction between military and civilian domains while exploiting legal and political ambiguities below the threshold of conventional interstate war.

Hybrid warfare presents significant challenges for International Humanitarian Law because many of its methods fall outside traditional understandings of armed conflict. Cyber operations targeting electrical grids, hospitals, financial systems, or communication infrastructure may produce humanitarian consequences comparable to kinetic attacks without involving conventional weapons. Similarly, coordinated disinformation campaigns may undermine humanitarian operations, incite violence against civilian populations, or obstruct the delivery of humanitarian assistance.

Although existing legal principles remain applicable wherever an armed conflict exists, many aspects of hybrid warfare continue to generate debate regarding attribution, proportionality, civilian protection, and accountability. The rapid evolution of technology has therefore prompted increasing calls for the progressive development of international law to address these emerging methods of warfare while preserving the fundamental humanitarian principles underlying the existing legal framework.

The classification of armed conflicts is not merely an academic exercise but a legal determination that directly influences the rights, obligations, and protections applicable to all parties involved. As contemporary conflicts become increasingly multidimensional, ensuring accurate legal classification remains essential for promoting accountability, safeguarding civilians, and preserving the integrity of the international humanitarian legal order.



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III. Existing International Legal Framework

The contemporary legal framework governing armed conflict is the product of more than a century of progressive codification, judicial interpretation, and customary state practice. It seeks to regulate not only the conduct of hostilities but also the protection of individuals affected by armed conflict and the accountability of those responsible for serious violations. Unlike domestic legal systems, where a single constitution or statute may serve as the primary source of law, international humanitarian and human rights law derive from a diverse body of treaties, customary international law, judicial decisions, and general principles of law. Collectively, these instruments establish the legal obligations of both states and, in certain circumstances, non-state armed actors.

The legal architecture governing contemporary conflicts rests upon three interconnected branches of international law. International Humanitarian Law (IHL) regulates the conduct of parties during armed conflict and seeks to limit unnecessary suffering by protecting persons who are not, or are no longer, participating in hostilities. International Human Rights Law (IHRL) guarantees the inherent rights and freedoms of individuals at all times, including during armed conflict, subject only to limited derogations in exceptional circumstances. Complementing these two branches is International Criminal Law (ICL), which establishes individual criminal responsibility for grave international crimes such as war crimes, crimes against humanity, genocide, and the crime of aggression. Together, these bodies of law form the legal foundation upon which accountability for violations committed by state and non-state actors is assessed.



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Hague Conventions of 1899 and 1907

The Hague Peace Conferences of 1899 and 1907 marked the first comprehensive attempt by the international community to codify the laws and customs governing the conduct of warfare. While earlier humanitarian instruments primarily focused on protecting wounded soldiers, the Hague Conventions addressed the methods and means by which warfare could be conducted. They introduced rules regulating military occupation, the treatment of prisoners of war, the rights and duties of neutral states, and restrictions on certain weapons and military tactics.

One of the enduring contributions of the Hague Regulations is the principle that belligerents do not possess an unlimited right to choose methods or means of warfare. Military operations must be directed toward legitimate military objectives and conducted in a manner that minimises unnecessary suffering. The Regulations also establish duties for occupying powers, including the obligation to maintain public order and respect existing domestic laws unless absolutely prevented from doing so. Many provisions of the Hague Regulations have subsequently attained the status of customary international law and continue to govern contemporary armed conflicts.



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Geneva Conventions of 1949

The four Geneva Conventions adopted on 12 August 1949 constitute the cornerstone of modern International Humanitarian Law and enjoy universal ratification, making them among the most widely accepted treaties in international law. They were negotiated in response to the humanitarian devastation of the Second World War and sought to provide comprehensive legal protection to individuals affected by armed conflict.

The First Geneva Convention protects wounded and sick members of armed forces on land, requiring parties to collect and care for the injured without adverse distinction. Medical personnel, hospitals, ambulances, and humanitarian relief organisations are granted special protection and must not be deliberately targeted during military operations.

The Second Geneva Convention extends similar protections to wounded, sick, and shipwrecked members of armed forces at sea. Naval warfare presents unique humanitarian challenges, and this Convention obliges parties to rescue and care for individuals in distress irrespective of their nationality or affiliation.

The Third Geneva Convention governs the treatment of prisoners of war (POWs). It establishes detailed standards concerning detention conditions, medical care, judicial guarantees, correspondence with families, labour, and eventual repatriation. Prisoners of war must be treated humanely at all times and protected from torture, intimidation, coercion, public humiliation, and reprisals.

The Fourth Geneva Convention provides extensive protections for civilians during armed conflict and military occupation. It prohibits collective punishment, unlawful deportation, hostage-taking, torture, and attacks directed against protected civilians. The Convention also regulates humanitarian relief operations, evacuation procedures, and the responsibilities of occupying powers toward civilian populations under their control.

Together, the Geneva Conventions embody the humanitarian principle that even during armed conflict, individuals retain fundamental rights that cannot be disregarded in pursuit of military objectives.



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Additional Protocols to the Geneva Conventions

Recognising the changing nature of warfare, states adopted Additional Protocol I and Additional Protocol II in 1977, followed by Additional Protocol III in 2005.

Additional Protocol I applies primarily to International Armed Conflicts and significantly expands protections for civilians. It codifies fundamental principles such as distinction, proportionality, and precaution in attack while prohibiting indiscriminate attacks and reinforcing protections for civilian objects, journalists, humanitarian personnel, and the natural environment. It also formally recognises wars of national liberation as international armed conflicts under specified circumstances.

Additional Protocol II represents the first international treaty devoted exclusively to Non-International Armed Conflicts. It supplements Common Article 3 by establishing stronger protections for civilians, prohibiting forced displacement, collective punishment, acts of terrorism, slavery, pillage, and violence against persons who are not participating in hostilities. Given that the majority of contemporary conflicts are non-international in character, Additional Protocol II has become increasingly significant in regulating modern warfare.

Additional Protocol III, adopted in 2005, introduced the Red Crystal as an additional protective emblem alongside the Red Cross and Red Crescent. This measure sought to enhance the neutrality and universal acceptance of humanitarian symbols in situations where existing emblems might carry religious or political connotations.



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International Human Rights Treaties

While International Humanitarian Law specifically governs armed conflict, International Human Rights Law applies at all times, including during war. The relationship between these bodies of law ensures that individuals continue to enjoy legal protection even when armed hostilities occur.

The Universal Declaration of Human Rights (1948) established the foundational principles of the modern international human rights system by affirming the inherent dignity, equality, and inalienable rights of all human beings. Although originally adopted as a declaration rather than a treaty, many of its provisions are now regarded as reflecting customary international law.

The International Covenant on Civil and Political Rights (ICCPR) guarantees rights including the right to life, prohibition of torture, freedom from arbitrary detention, fair trial guarantees, freedom of expression, and freedom of religion. Certain rights, such as the prohibition of torture and slavery, remain non-derogable even during states of emergency.



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The International Covenant on Economic, Social and Cultural Rights (ICESCR) protects rights relating to health, education, housing, work, food, and an adequate standard of living. Armed conflicts frequently disrupt the enjoyment of these rights through destruction of infrastructure, displacement, and humanitarian crises.

The Convention against Torture (CAT) establishes an absolute prohibition on torture and other cruel, inhuman, or degrading treatment or punishment. No exceptional circumstances—including war, internal instability, or national emergency—may be invoked to justify torture.

The Convention on the Rights of the Child (CRC) and its Optional Protocol on the Involvement of Children in Armed Conflict provide special protections for children affected by conflict. These instruments prohibit the compulsory recruitment of children into armed forces and seek to prevent their direct participation in hostilities while emphasising rehabilitation and reintegration for child victims.

The International Convention for the Protection of All Persons from Enforced Disappearance prohibits enforced disappearances and affirms the right of families to know the fate and whereabouts of disappeared persons. Enforced disappearance has become a recurring feature of numerous contemporary conflicts, often used to suppress dissent or eliminate perceived political opponents.



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International Criminal Law and Accountability

The humanitarian protections established by treaty law would possess limited practical significance without corresponding mechanisms for accountability. International Criminal Law addresses this need by imposing individual criminal responsibility for the most serious violations of international law

The Convention on the Prevention and Punishment of the Crime of Genocide (1948) obliges states not only to punish genocide but also to prevent its commission wherever possible. The Convention recognises genocide as an international crime regardless of whether committed during peace or armed conflict.

The Rome Statute of the International Criminal Court (1998) established the first permanent international criminal tribunal with jurisdiction over genocide, crimes against humanity, war crimes, and, following subsequent amendments, the crime of aggression. The Statute codifies many principles of customary international law and has become the primary legal instrument governing international criminal accountability.

Other important treaties include the Chemical Weapons Convention (1993), which prohibits the development, production, stockpiling, transfer, and use of chemical weapons; the Biological Weapons Convention (1972), which outlaws biological and toxin weapons; the Convention on Certain Conventional Weapons (CCW), regulating weapons considered excessively injurious or indiscriminate; the Ottawa Convention (1997) banning anti-personnel landmines; and the Convention on Cluster Munitions (2008) restricting weapons that pose long-term risks to civilian populations.



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Customary International Law and the Martens Clause

Not all obligations applicable during armed conflict derive exclusively from treaties. Many rules have developed through customary international law, which arises from consistent state practice accepted as legally obligatory (*opinio juris*). Customary rules bind all states irrespective of treaty ratification and frequently govern situations where treaty law is silent or incomplete.

The International Committee of the Red Cross (ICRC) published its landmark Study on Customary International Humanitarian Law in 2005, identifying numerous customary rules applicable in both international and non-international armed conflicts. These include protections for civilians, medical personnel, humanitarian workers, cultural property, and the prohibition of torture, collective punishment, and indiscriminate attacks.

A particularly significant customary principle is the Martens Clause, first incorporated into the Hague Convention of 1899. It provides that even where specific legal rules do not exist, civilians and combatants remain protected by the principles of humanity and the dictates of public conscience. The Martens Clause has assumed increasing importance in addressing emerging technologies and methods of warfare, including cyber operations and autonomous weapons systems, where treaty law has yet to fully develop.

Collectively, these treaties, customary rules, and legal principles form an integrated framework governing contemporary armed conflict. They establish the rights of protected persons, define the obligations of parties to conflict, and provide the legal basis upon which international accountability mechanisms assess alleged violations committed by both state and non-state armed actors.



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IV. Relationship Between International Humanitarian Law and International Human Rights Law

For much of the twentieth century, International Humanitarian Law (IHL) and International Human Rights Law (IHRL) were regarded as two distinct branches of international law operating in separate circumstances. International Humanitarian Law was traditionally viewed as the legal framework governing situations of armed conflict, while International Human Rights Law was considered applicable primarily during peacetime. However, the evolution of international jurisprudence and the changing nature of armed conflict have demonstrated that these bodies of law are neither mutually exclusive nor contradictory. Instead, they operate concurrently, complementing one another in protecting individuals affected by conflict.

International Humanitarian Law applies specifically during armed conflicts and regulates the conduct of hostilities by limiting the methods and means of warfare while protecting persons who are not, or are no longer, participating in hostilities. International Human Rights Law, in contrast, applies continuously in times of peace, internal disturbances, and armed conflict alike. Human rights obligations therefore do not cease simply because a state is engaged in military operations. Rather, they continue to bind states alongside their obligations under International Humanitarian Law, subject only to limited derogations expressly permitted under certain human rights treaties.

The International Court of Justice (ICJ) has consistently affirmed this concurrent application. In its Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons (1996), the Court observed that the protection afforded by the International Covenant on Civil and Political Rights does not cease during armed conflict, except where lawful derogations have been invoked. Similarly, in the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (2004), the Court confirmed that both International Humanitarian Law and International Human Rights Law may apply simultaneously within occupied territories, with each body of law regulating different aspects of state conduct.



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The relationship between these legal regimes is commonly explained through the principle of *lex specialis derogat legi generali*, meaning that the more specific legal rule prevails over the more general one when both govern the same subject matter. During active hostilities, International Humanitarian Law serves as the *lex specialis* for determining issues such as the lawful use of force, targeting decisions, prisoner-of-war status, and the protection of civilians. Nevertheless, International Human Rights Law continues to regulate matters not specifically addressed by humanitarian law, including judicial guarantees, freedom of expression, access to effective remedies, and broader protections against discrimination. Certain human rights treaties permit states to temporarily derogate from specific obligations during officially declared public emergencies threatening the life of the nation.

Article 4 of the International Covenant on Civil and Political Rights allows limited derogations where strictly required by the exigencies of the situation. However, these derogations are subject to stringent conditions and must remain consistent with other international legal obligations. Importantly, several rights are recognised as non-derogable, meaning that they cannot be suspended under any circumstances, including armed conflict. These include the prohibition of torture, slavery, genocide, retroactive criminal punishment, and arbitrary deprivation of life.

The concurrent application of IHL and IHRL has become particularly significant in contemporary armed conflicts characterised by military occupation, counterterrorism operations, and prolonged internal conflicts. Questions concerning arbitrary detention, targeted killings, humanitarian access, surveillance, freedom of movement, and the protection of displaced persons often require interpretation under both legal frameworks. Rather than competing with one another, International Humanitarian Law and International Human Rights Law collectively reinforce the principle that armed conflict does not create a legal vacuum. Even during war, the exercise of military power remains subject to legal limitations designed to preserve human dignity and minimise unnecessary suffering.



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V. Violations by State Actors

States bear the primary responsibility for ensuring compliance with both International Humanitarian Law and International Human Rights Law. As parties to international treaties and the principal subjects of international law, governments are legally obligated not only to refrain from committing violations themselves but also to prevent, investigate, and punish violations committed by their armed forces, security agencies, and other entities acting under their authority or effective control. Despite these obligations, numerous contemporary conflicts have witnessed serious violations attributed to state actors, many of which constitute war crimes, crimes against humanity, or other internationally wrongful acts.

One of the most frequently alleged violations concerns indiscriminate attacks, whereby military operations fail to distinguish between military objectives and civilians or civilian objects. International Humanitarian Law requires parties to direct attacks solely against lawful military targets. Weapons or tactics incapable of distinguishing between combatants and civilians are prohibited because they violate the principle of distinction. Indiscriminate bombardment of densely populated urban areas, attacks employing inherently inaccurate weapons, and military operations conducted without adequate precautions have resulted in significant civilian casualties across numerous contemporary conflicts.

Another prohibited practice is collective punishment, which involves imposing penalties upon an entire civilian population for actions allegedly committed by a few individuals. Article 33 of the Fourth Geneva Convention expressly prohibits collective punishment, intimidation, and reprisals against protected persons. Measures such as widespread destruction of civilian property, prolonged restrictions on essential goods, punitive demolitions, or indiscriminate sanctions targeting civilian communities may raise concerns under this prohibition where they are not justified by imperative military necessity.

The responsibility of states extends beyond refraining from such conduct. Governments are required to investigate credible allegations, prosecute those responsible, cooperate with international accountability mechanisms, and provide effective remedies for victims. Failure to fulfil these obligations may itself constitute a breach of international law and undermine broader efforts to ensure accountability and prevent future violations.



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International law further prohibits the use of chemical weapons, reflecting the longstanding principle that weapons causing unnecessary suffering or incapable of distinguishing between combatants and civilians are unlawful. The Chemical Weapons Convention, together with customary international law, prohibits the development, stockpiling, transfer, and use of chemical weapons under any circumstances.

Allegations concerning their use continue to attract significant international attention due to their indiscriminate humanitarian consequences.

Another serious concern is the starvation of civilians as a method of warfare.

Article 54 of Additional Protocol I and customary International Humanitarian Law prohibit intentionally depriving civilian populations of objects indispensable to their survival, including food, water, agricultural resources, and humanitarian assistance.

Sieges that deliberately prevent humanitarian relief or intentionally create famine conditions may constitute war crimes under the Rome Statute.

Finally, forced displacement remains one of the defining humanitarian consequences of modern conflict. While temporary evacuation of civilians may be permissible where required for their security or imperative military reasons, unlawful deportation, population transfer, or demographic engineering is prohibited under the Fourth Geneva Convention and may amount to a war crime or crime against humanity depending upon the circumstances. Contemporary armed conflicts have displaced millions of individuals, creating prolonged humanitarian crises that frequently extend well beyond the cessation of hostilities.



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VpI. Violations by Non-State Armed Actors

The increasing prominence of non-state armed actors has fundamentally transformed the landscape of contemporary armed conflict. Unlike traditional interstate wars, where hostilities were conducted primarily by regular armed forces operating under established chains of command, modern conflicts frequently involve insurgent groups, separatist movements, terrorist organizations, militias, transnational extremist networks, and de facto authorities exercising control over territory and civilian populations. In many contemporary conflicts, these actors possess military capabilities comparable to state armed forces while operating outside the conventional institutional structures associated with sovereign governments.

International law does not exempt non-state armed actors from humanitarian obligations merely because they lack formal international legal personality. Common Article 3 of the Geneva Conventions, Additional Protocol II, customary International Humanitarian Law, and international criminal jurisprudence collectively establish that organized armed groups participating in armed conflicts are bound by fundamental humanitarian rules. They are prohibited from targeting civilians, torturing detainees, recruiting children, committing acts of sexual violence, and engaging in other conduct prohibited under International Humanitarian Law. Individual members and commanders may incur criminal responsibility before domestic courts or international tribunals for serious violations amounting to war crimes or crimes against humanity.

One of the most widely recognised violations committed by non-state armed actors is terrorism, particularly where violence is intentionally directed against civilians for political, ideological, or religious purposes. Although international law has not produced a universally accepted comprehensive definition of terrorism, numerous treaties criminalize specific terrorist acts such as hostage-taking, aircraft hijacking, attacks against internationally protected persons, terrorist bombings, and the financing of terrorism. During armed conflict, deliberate attacks intended to spread fear among civilian populations violate the principle of distinction and may constitute war crimes where committed in connection with an armed conflict. Such attacks undermine humanitarian protection by intentionally targeting individuals who enjoy legal immunity from direct attack.



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Another serious concern is the use of human shields, whereby civilians are deliberately positioned around military objectives to deter attacks by opposing forces. This practice exploits the protections afforded to civilians under International Humanitarian Law and significantly increases the risk of civilian casualties. Article 51(7) of Additional Protocol I expressly prohibits the use of civilians to render military objectives immune from attack. While the presence of human shields does not automatically prohibit attacks on legitimate military objectives, attacking forces remain bound by the principles of proportionality and precaution and must take all feasible measures to minimise civilian harm.

The recruitment and use of child soldiers remains one of the gravest humanitarian consequences of contemporary armed conflict. Children are frequently exploited as combatants, porters, messengers, intelligence gatherers, or human shields, often through coercion, abduction, or manipulation. The Convention on the Rights of the Child, its Optional Protocol on the Involvement of Children in Armed Conflict, and the Rome Statute prohibit the recruitment or use of children below the age prescribed under international law in hostilities. The International Criminal Court's judgment in *Prosecutor v. Thomas Lubanga Dyilo* established an important precedent by confirming that the conscription, enlistment, or use of children under the age of fifteen in armed conflict constitutes a war crime.

Conflict-related sexual violence has likewise emerged as a systematic method employed by numerous armed groups to terrorize civilian populations, punish perceived opponents, alter demographic patterns, or consolidate territorial control. Acts including rape, sexual slavery, forced pregnancy, enforced sterilization, and other forms of sexual violence are prohibited under International Humanitarian Law and may constitute war crimes, crimes against humanity, or acts of genocide depending upon the circumstances. International jurisprudence, particularly the landmark judgment in *Prosecutor v. Akayesu*, recognised sexual violence not merely as an incidental consequence of armed conflict but as an independent international crime capable of contributing to genocidal campaigns.

Hostage-taking remains another recurring violation committed by organized armed groups. Civilians, humanitarian personnel, journalists, peacekeepers, and foreign nationals are frequently abducted to obtain political concessions, financial ransom, prisoner exchanges, or international publicity. Common Article 3 of the Geneva Conventions expressly prohibits hostage-taking in both international and non-international armed conflicts, while the International Convention Against the Taking of Hostages further criminalizes such conduct under international law. The deliberate detention of protected persons for coercive purposes represents a serious violation of humanitarian norms irrespective of the objectives pursued. Many non-state armed groups also engage in forced recruitment, compelling civilians to join their ranks through intimidation, threats, or violence. Recruitment frequently targets vulnerable populations displaced by conflict, including children, refugees, and internally displaced persons. Such practices undermine civilian protection and often expose individuals to further violations including forced labour, participation in hostilities, and exploitation.



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In several contemporary conflicts, armed groups have evolved beyond purely military organizations and established systems of parallel governance within territories under their control. These entities frequently administer taxation, policing, judicial mechanisms, education, and public services while exercising de facto authority over civilian populations. Although the exercise of territorial control does not confer international recognition as a state, it does impose corresponding humanitarian obligations. Armed groups exercising governmental functions remain bound to respect fundamental humanitarian guarantees, facilitate humanitarian relief where necessary, and refrain from arbitrary detention, summary executions, torture, and other prohibited conduct. Failure to comply may engage both individual criminal responsibility and, where applicable, broader accountability mechanisms established by the international community.

The growing influence of non-state armed actors reflects one of the defining characteristics of twenty-first century conflict. Their participation has challenged traditional assumptions concerning sovereignty, accountability, and the application of international law. Nevertheless, the central humanitarian principle remains unchanged: the protection of civilians and persons hors de combat does not depend upon the identity or legal status of the perpetrator. Both state and non-state actors are bound by the fundamental norms of International Humanitarian Law, and violations committed by either may give rise to international responsibility.



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VII. Fundamental Principles of International Humanitarian Law

International Humanitarian Law is founded upon a number of fundamental principles that govern the conduct of hostilities irrespective of the parties involved or the nature of the conflict. These principles seek to balance military necessity with humanitarian considerations by limiting the methods and means of warfare while ensuring the protection of civilians and other protected persons. They serve as the basis upon which military operations are assessed and form the legal standard against which alleged violations are evaluated by international courts, investigative mechanisms, and humanitarian organizations.

Principle of Distinction

The principle of distinction is widely regarded as the cornerstone of International Humanitarian Law. Codified in Article 48 of Additional Protocol I and recognised as customary international law, it requires parties to an armed conflict to distinguish at all times between civilians and combatants, as well as between civilian objects and military objectives. Attacks may be directed only against lawful military objectives, while civilians and civilian infrastructure enjoy protection from direct attack unless and for such time as they take a direct part in hostilities.

This principle underpins virtually every rule governing the conduct of warfare. Deliberate attacks against hospitals, schools, places of worship, humanitarian relief facilities, or residential areas lacking military significance violate the obligation of distinction and may constitute war crimes.



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Principle of Proportionality

The principle of proportionality prohibits attacks in which the expected incidental loss of civilian life or damage to civilian objects would be excessive in relation to the concrete and direct military advantage anticipated. Importantly, proportionality does not prohibit civilian casualties altogether; rather, it requires military commanders to carefully balance anticipated military gains against foreseeable humanitarian consequences.

Determining proportionality is often among the most contested aspects of contemporary armed conflict. Military commanders must assess available intelligence, select appropriate weapons, evaluate potential civilian presence, and consider alternative methods capable of achieving comparable military objectives with reduced humanitarian impact.

Military Necessity

Military necessity permits only those measures genuinely required to achieve a legitimate military objective that are not otherwise prohibited by international law. The doctrine does not justify unlimited violence or humanitarian abuses. Rather, it recognises that military operations must remain directed toward defeating enemy forces while respecting applicable legal restrictions.

Accordingly, military necessity cannot justify torture, collective punishment, attacks on civilians, starvation of civilian populations, or the use of prohibited weapons. The principle operates within—not outside—the broader framework established by International Humanitarian Law.



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Precaution

Closely connected to distinction and proportionality is the principle of precaution. Parties to an armed conflict must take all feasible precautions to minimise incidental civilian harm before launching military operations. This includes verifying that targets constitute lawful military objectives, selecting weapons capable of limiting civilian casualties, providing effective advance warnings where circumstances permit, and cancelling or suspending attacks if it becomes apparent that civilian harm would be excessive.

The obligation to exercise precaution reflects the preventive character of International Humanitarian Law by requiring commanders to anticipate and reduce humanitarian consequences before military force is employed.

Principle of Humanity.

The principle of humanity forms the moral foundation of International Humanitarian Law. It requires parties to armed conflicts to avoid unnecessary suffering and to treat all persons humanely, including civilians, detainees, prisoners of war, and individuals rendered hors de combat through injury, illness, capture, or surrender.

Acts such as torture, mutilation, cruel treatment, humiliating or degrading treatment, medical experimentation, and summary executions are incompatible with the principle of humanity and are prohibited under both treaty law and customary international law.



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Command Responsibility

Modern international criminal law recognises that responsibility for violations extends beyond those who physically commit unlawful acts. Under the doctrine of command responsibility, military commanders and civilian superiors may incur criminal liability where they knew, or should reasonably have known, that subordinates were committing international crimes and failed to prevent the violations or punish those responsible. The doctrine has been affirmed through the jurisprudence of the International Military Tribunal at Nuremberg, the ICTY, the ICTR, and the International Criminal Court. It reflects the principle that effective leadership entails corresponding legal responsibility for ensuring compliance with Interna



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State Responsibility

Alongside individual criminal responsibility exists the doctrine of state responsibility, which governs internationally wrongful acts attributable to states. The Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA) provide that a state incurs international responsibility where conduct attributable to it breaches an international legal obligation. Such responsibility may arise through the actions of armed forces, governmental officials, security agencies, or entities acting under the state's direction or effective control.

Where internationally wrongful acts occur, responsible states are obligated to cease the violation, provide assurances of non-repetition where appropriate, and make full reparation for the injury caused. Reparations may include restitution, compensation, or satisfaction depending upon the circumstances.

Collectively, these principles constitute the normative foundation of International Humanitarian Law. Regardless of technological advancements, evolving methods of warfare, or the identity of the parties involved, these principles continue to guide the lawful conduct of hostilities and remain central to the protection of civilians during armed conflict. They also provide the legal framework through which international courts, investigative bodies, and the Human Rights Council evaluate allegations of violations committed by both state and non-state armed actors.



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