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International Advancements in the Law of Armed Rebellion

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ABSTRACT

Armed conflict has wreaked havoc on the lives of millions of civilians in recent decades. In many armed conflicts, serious violations of international humanitarian and human rights law are prevalent. Some of these breaches may even be considered genocide, war crimes, or crimes against humanity in extreme circumstances. Armed Conflict is one of the developing issues, as the repercussions of war extend well beyond battlefield dead. Armed conflict frequently results in forced migration, long-term refugee issues, and infrastructure devastation. Not only this, the institutions in the social, political, and economic realms can be permanently harmed. Human rights law, refugee law, and humanitarian law are three aspects of modern international law that aim to offer protection to war victims. Even though international humanitarian law intends to lessen the effects of war, it does not provide a comprehensive definition of what makes up an armed conflict. Its field of material application, however, the conventions in question relate to a wide range of armed conflicts and thus provide a glimpse into their legal boundaries. These devices don't provide clear criteria for this difficult concept

In recent years, there has been greater attention drawn regarding humanitarian and human rights legislation, humanitarian intervention, the maintenance of peace and collective security, as well as protecting cultural property, such as humanitarian law applies, limiting the activities of warring parties and ensuring the protection and decent treatment of those who are not taking part or cannot take part in the hostilities. Humanitarian law, like international human rights law, defends people's lives and dignity by forbidding torture and cruel treatment, providing rights for those facing criminal charges, prohibiting discrimination, and establishing measures for protecting women and children. Humanitarian law governs the conduct of hostilities, the status of combatants and prisoners of war and many more. Therefore, this research paper aims to understand the Developing the Laws of Armed Conflict in International law and the growth of law after seventy years of Geneva Conventions.

Keywords: *Armed Conflict, Geneva Conventions, Humanitarian Law, Human rights law International law.*

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I. OVERVIEW

One of the contemporary legal issues facing people working in international humanitarian law and allied subjects, such as international criminal law, is the typology or classification of armed conflicts. Knowing when such scenarios occur is critical, since the use of international humanitarian law is contingent on the presence of an international or non-intentional armed conflict. Because not all laws apply to both forms of conflict, it is critical to understand what each of the two types of armed conflict entails. To establish whether the International Humanitarian Law applies, one must first determine whether there is an armed conflict simpliciter, and then assess whether the conflict is international or non-international. Not the other way around, an armed conflict arises when there is an international or non-international armed conflict. Armed conflicts, and only armed conflicts, are covered under international humanitarian law. When States use armed force against one another, or when state authorities and organized armed groups or such organizations within a State engage in protracted armed warfare, there is an armed conflict. International humanitarian law applies from the start of such armed conflicts and continues after hostilities have ended until a global peace agreement is reached; or, in the event of internal disputes, a peace settlement is got. International humanitarian law continues to apply until that time in the entire territory of the fighting states or, in the event of internal conflicts, in the entire territory of the warring states. International human rights law and international humanitarian law share the goal of preserving the dignity and humanity of all. Over the years, the General Assembly, the Commission on Human Rights and, more recently, the Human Rights Council have considered that, in armed conflict, parties to the conflict have legally binding obligations concerning the rights of persons affected by the conflict.²

Although the Geneva Conventions are undeniably important to the law of armed conflict (LOAC), it is also obvious that certain of their provisions are difficult to reconcile with modern warfare. Article 28 of the Geneva Convention Relative to the Treatment of Prisoners of War, "prisoners of war should be given a reasonable working rate of pay by the detaining authority straight," according to Article 62 of the same agreement it is stated that the rate will be set by the government, but it will never be less than that. "prisoners of war should be given a reasonable working rate of pay by the detaining authority straight," according to Article 62 of the same agreement. Said authorities will set the rate, but it will never be less than one-fourth of a Swiss franc for a complete working day". The foregoing provisions are unfeasible to apply

² United Nations Human Right, HUMAN RIGHTS IN ARMED CONFLICT (2011).

on today's modern battlefield, for many years, however, it was assumed that the distinction between international human rights law and international humanitarian law was that the former applied in times of peace and the latter in times of armed conflict. Modern international law accepts that this distinction is incorrect. Indeed, the international community has long recognized that, because human rights duties stem from the acknowledgement of all human beings' fundamental rights, which can be harmed both in times of peace and in times of war, international human rights law continues to apply in armed conflict. Furthermore, there is nothing in human rights accords that says they aren't relevant in times of armed conflict. As a result, in times of armed conflict, the two bodies of law—international human rights law and international humanitarian law are complementing sources of duties.

(A) Review of Literature

1. Human Right in Armed Conflict by United Nations Human Right

In this paper, the researcher provides a comprehensive legal analysis and guidance to state authorities, human rights and humanitarian actors, and others on how to apply international human rights and humanitarian law to the protection of people caught up in armed conflicts. It focuses on the complementary application of these two bodies of law in particular. Its goal is to offer an overview of their concurrent application rather than to address all important elements. It provides the required legal context and explanation of key concepts to help the reader better comprehend the link between the two bodies of law, as well as the consequences of their complementary nature.

2. International Humanitarian Law and the Challenges of Contemporary Armed Conflicts Report Document by The International Committee of the Red Cross

The purpose of the study was to spark discussion and debate on several difficulties highlighted by the International Committee of the Red Cross (ICRC) in international humanitarian law (IHL), as well as to propose future ICRC work targeted at clarifying and developing IHL. The study expands on several particular concerns identified in a previous report on the same subject delivered to the 28th International Conference of the Red Cross and Red Crescent in 2003, as well as summarizing new or developing topics worth debating.

Even though the study was created largely as a background paper for the 30th International Conference of the Red Cross and Red Crescent, the ICRC expects its contents will interest a broader audience. This is the second study published by the International Committee of the Red Cross (ICRC) for an International Conference of the Red Cross and Red Crescent on "International Humanitarian Law (IHL) and the Challenges of Contemporary Armed

Conflicts." The everyday reality of armed conflict has remained unchanged in the years since the initial report was submitted to the 28th International Conference in Geneva, in December 2003. While a comprehensive analysis of the current wars across the world is beyond this study, suffice it to state that war has relentlessly brought death, devastation, suffering, and loss in its wake.

3. Asymmetrical war and the notion of armed conflict a tentative conceptualization by Andreas Paulus, Mindia Vashakmadze

In this paper, the researcher investigates the extent to which the current body of humanitarian law relates to the new asymmetrical wars and attempts to understand the idea of armed conflict. It concludes that the concept provided by the ICTY Appeals Chamber in its Tadic' Decision on Jurisdiction, which was adopted by Article 8 (2) (f) of the Rome Statute, is a helpful beginning point for an examination of international humanitarian law's 'triggering mechanism' in asymmetrical wars. aims to determine the extent to which the current body of humanitarian law relates to the new asymmetrical wars and attempts to understand the idea of armed conflict. It concludes that the concept provided by the ICTY Appeals Chamber in its Tadic' Decision on Jurisdiction, which was adopted by Article 8 (2) (f) of the Rome Statute, is a helpful beginning point for an examination of international humanitarian law's 'triggering mechanism' in asymmetrical wars.

4. International Humanitarian Law and international criminal justice: an introductory handbook by The Commonwealth

This Handbook introduces international humanitarian law and international criminal law, two of the most significant areas of international law aimed at alleviating the horrors of war and ensuring human dignity. The norms of international law that regulate the conduct of participants in an armed conflict, particularly the laws that dictate how force may be used during the war, are known as international humanitarian law (IHL) or 'the law of armed conflict.' This field of international law aims to lessen the effects of war by controlling the means and techniques of combat and providing some protection for war victims. While it is impossible to remove the suffering caused by war, humanitarian law aims to reduce it to the bare minimum while maintaining military efficiency. All sides to an armed conflict are subject to international humanitarian law. Whether a party is an aggressor state or a state acting in self-defense has no bearing on its application.

In addition to aiming to implement international humanitarian law, international criminal law provides a mechanism for doing so. The sources of international humanitarian law (where can

IHL be found?), its applicability (when and where does IHL apply?), and its key features and principles (what does IHL entail?), such as the distinction between combatants and civilians and the law governing the conduct of hostilities, are all covered in this Handbook. The Handbook then examines the link between IHL and human rights legislation, looking at how that body of law interacts with IHL and to what degree it applies in times of armed conflict. Finally, the Handbook looks at international criminal law, with a focus on the International Criminal Court's jurisdiction.

5. The Classification of Armed Conflicts by International Criminal Courts and Tribunals

by Rogier Bartels

This paper looks at how international criminal courts and tribunals have interpreted the context of their respective war crimes rules. The ad hoc tribunals tended to avoid classification as either international or non-international armed conflict, instead of finding that a generic 'armed conflict' existed at the relevant time, according to a comprehensive review of how these institutions treated the material scope of application of the ihl. The ICC has a propensity to identify situations as non-international armed conflicts without examining whether the scenario may be classified as an international armed conflict instead (or at the same time. Non-international armed warfare is frequently misunderstood as a remnant regime. Incorrect conflict categorization might limit the extent of IHL's applicability and jeopardize an accused's right to a fair trial under international criminal law. To overcome conflict classification concerns, the author suggests a new look at the ICC's legal structure.

(B) Statement of The Problem

The affliction of war has brought terrible misery, pain, and destruction to millions of people, both fighters and civilians, from the beginning of history to the present day. While epic tales of freedom, revolution, and victory may have glorified war, no individual who has lived through the reality of armed conflict can avoid being disordered, anguished, and painful because of the human war, it is also fundamentally barbaric. The horrific suffering and anguish of war victims gave rise to numerous international laws protecting humanity and human lives. The researcher has limited her scope of research to the development of International Law on Armed Conflict and analysis on "**What are the evolving laws of armed conflict and how it helped to improve International law?**"

(C) Objectives of The Study

1. To have in-depth knowledge about developing of laws of armed conflict
2. To study its insinuations in International law

3. To analyze the impact of armed conflict on Humanitarian Law and Human rights law

(D) Research Methodology

The Research Methodology involves the use of secondary resources for the collection of data. Secondary research contains information found in research papers and other comparable publications. Public libraries, websites, and data gathered from previously completed surveys, among other sources, can make these papers available. Some government and non-government entities also save data that may be downloaded and utilized for the study. This is Doctrinal Research therefore, the information used in this paper is from online journals and online research papers and other sites.

II. APPLICATION OF INTERNATIONAL HUMANITARIAN LAW

An international armed conflict occurs when one or more states use military force against another, regardless of the reasons for the war or the severity of the conflict. There is no need for a formal declaration of war or acknowledgement of the situation. What happens on the ground determines whether there is an international armed conflict and, as a result, whether International Humanitarian Law can apply to the situation. It is founded on factual circumstances. Besides ordinary inter-state armed conflicts, Additional Protocol broadens the concept of international armed conflicts to encompass armed confrontations in which peoples are battling colonial dominance.

International humanitarian law (IHL) applies in two types of situations: international and non-international armed conflicts. In technical terms, these are referred to as "armed conflicts of a non-international nature." It has been held, but is not entirely uncontested, that every armed conflict which "does not involve a clash between nations" is not international, and that the latter phrase "bears its literal meaning".³As a result, all armed conflicts are classified as either international or non-international, and the two categories must be distinguished based on the parties involved, rather than the conflict's territorial breadth.

(A) International Armed Conflict

The International Humanitarian Law (IHL) governing international armed conflicts applies. "to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them."⁴ Since 1949, the concept of "armed conflict" has supplanted the traditional concept of "war." It

³Hamdan v. Rumsfeld, (2006) 548 U.S. 557.

⁴ GENEVA CONVENTION-IV, Art. 2(1)

was purposeful to use this far more generic expression 'armed conflict' instead of the word 'war.' The legal definition of 'war' can be debated indefinitely. When a state undertakes a hostile act against another state, it can always claim that it is only conducting a police operation or acting in self-defense. Such arguments are more difficult to make when the term 'armed conflict' is used. Even if one party rejects the existence of a state of war, any disagreement between two states that leads to the intervention of armed forces is an armed conflict. In the case of *The Prosecutor v. Tadic*, the International Criminal Tribunal for the Former Yugoslavia (ICTY) confirmed that "an armed conflict exists whenever there is a resort to armed force between States", this definition has since been used several times by the ICTY's Chambers and by other international bodies.⁵ When the armed personnel of two states are involved, one shot or one person captured following government orders is sufficient for IHL to apply, although, in other circumstances, for example, a summary execution by a secret agent dispatched by his government overseas, a higher level of violence is required. In all instances of partial or whole occupation of the territory of a High Contracting Party, even if the said occupation meets with no opposition, the same set of requirements applies.

With, *Public Prosecutor v. Folkerts*⁶ The accused and his counsel went into great detail about the political background that they claimed had led to his actions, which they claimed could not be classified as formal acts of war but should be classified as acts of resistance in any case (at least that is how the Court interprets the plea), making Folkerts' actions understandable and possibly even justified. Regardless of whether or whether the Red Army Faction's complaints to the actions of the United States and the Federal Republic of Germany have a kernel of truth, the Court dismisses this petition unequivocally. Individuals who disagree with their country's policies and, as a result, resort to acts of violence such as those that occurred today are completely unacceptable in democratic nations such as the ones just named, as well as in the Netherlands. Such activities are against the Constitution's most fundamental precepts. The Court ruled it is unconcerned with whatever crimes the accused may have committed while overseas. His actions in this case cannot and will never be explained or excused based on his participation in the Red Army Faction, as his lawyer claims.

A confrontation between governmental forces and rebel forces within a single country takes on an international dimension when the rebel forces are de facto agents of a third State, according to a common rule of the law of State liability on the attribution of illegal conduct. In this case, the latter's actions are attributed to the third State and are controlled by international

⁵The Prosecutor v. Tadic Case (1997) ICTY 941 [Part A., para. 70].

⁶ PUBLIC PROSECUTOR v. FOLKERTS (1977).

humanitarian law. The concept of international armed conflict was therefore restricted to armed conflicts between states, according to conventional philosophy. This notion was contested during the Diplomatic Conference of 1974-1977, which resulted in the approval of the two Additional Protocols of 1977, and it was eventually accepted that "wars of national liberation" should be regarded as international armed conflicts as well.

(B) Non-International Armed Conflict

Non-international armed conflicts or, to use an old word, "civil wars" have historically been seen as entirely domestic affairs for states, with no international law rules applicable. With introducing Article 3 of the four Geneva Conventions in 1949, this viewpoint was drastically altered. For the first time, the international community agreed on a set of minimum assurances that must be followed during non-international armed confrontations. Notwithstanding violence between states' armed forces, not every act of violence within a state, especially when intended towards security personnel, is considered an armed conflict. As a result, the level of violence required for IHL to apply in non-international armed conflicts is higher than in international armed conflicts. Despite the critical necessity of specifying this lower limit beyond which IHL does not apply, Article 3 of the Geneva convention lacks to provide a precise description of non-international armed conflict. The necessity for a detailed definition of the concept of non-international armed conflict was underlined during the Diplomatic Conference, and it is addressed in Article 1 of Additional Protocol II.

Protocol II was agreed upon following that clause which states that "shall apply to all armed conflicts not covered by Article 1 of Protocol I and which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol". It should be noted that this fairly restrictive definition applies only to Protocol II. It does not apply to Article 3 common to the four Geneva Conventions.⁷ In practice, there will be cases of non-international armed conflict where only common Article 3 will apply, either because the dissident organizations' degree of organization is inadequate for Protocol II to apply, or because the fighting is between non-State armed groups. Common Article 3 will, on the other contrary, apply to all instances in which Protocol II is relevant. Furthermore, the ICC Statute provides an intermediary threshold of application. It does not

⁷Protocol II, Art. 1: "This Protocol, which develops and supplements Article 3 common to the Geneva Conventions [...] without modifying its existing conditions of application [...]."

require that the conflict is between governmental forces and rebel forces, that the latter control part of the territory, or that there be a responsible command.⁸ The conflict must, however, be protracted and the armed groups must be organized. The jurisprudence of the ICTY has, in our view correctly, replaced the conflict's protracted character with a requirement of intensity. It requires a high degree of organization and violence for any situation to be classified as an armed conflict, not of an international character.⁹

In the case in *Prosecutor v. Jean-Pierre Bemba Gombo*, it was held that International humanitarian law contains a clear duty for commanders to ensure that members of armed forces are aware of their obligations under the Geneva Conventions and Additional Protocol I. This duty is expressly stated to be to prevent and suppress breaches of those treaties.¹⁰ There is a prevailing trend to blur the distinction between Humanitarian law that applies in international and non-international armed conflicts. International criminal tribunals' jurisprudence, the influence of human rights, and even some treaty rules adopted by States have all helped to bring the law of non-international armed conflicts closer to the law of international armed conflicts, with some even suggesting that the distinction be abolished entirely. In the many fields where the treaty rules still differ, this convergence has been rationalized by claiming that under customary international law the differences between the two categories of conflict have gradually disappeared. The ICRC study on customary International Humanitarian Law comes, after ten years of research, to the conclusion that 136 (and arguably even 141) out of 161 rules of customary humanitarian law, many of which are based on rules of Protocol I applicable as a treaty to international armed conflicts, apply equally to non-international armed conflicts.¹¹

Internal violence and tensions that do not exceed the threshold of non-international armed conflicts are not covered under IHL. Article 1(2) of Additional Protocol II states that "This Protocol shall not apply to circumstances of internal disturbances and tensions, such as riots, isolated and intermittent acts of violence, and other actions of a similar type, as not constituting armed conflicts," The lack of applicability of IHL does not inevitably imply a lower level of protection for those involved. Human rights norms and peacetime domestic law would apply in such instances; they are more limited, for example, when it comes to the use of force and the imprisonment of opponents. while IHL gives States greater latitude on these two aspects.

(C) Acts Of Terrorism

⁸ The International Criminal Court Part A., Art. 8(2)(f).

⁹ The Prosecutor v. Bootkoski (2001).

¹⁰ The Prosecutor V. Jean-Pierre Bemba Gombo (2018)

¹¹ ICRC, 26TH INTERNATIONAL CONFERENCE 1995: RESOLUTION 2 - ICRC ICRC.ORG (1995).

International Humanitarian Law (IHL) only applies to armed conflicts and therefore covers terrorist acts only when they are committed within the framework or as part of an armed conflict. Acts of terrorism committed in situations of internal violence or in times of peace are not covered by IHL. However, acts of terrorism are also prohibited by internal and international criminal law¹² Precisely because violence is perpetrated using terrorist tactics does not make it an armed war. International armed conflicts are defined by the use of violence by two states against each other, whereas non-international armed conflicts are defined by the level of violence and organization among the parties. It makes no difference whether legal or illegal tactics are utilized in each scenario. Terror attacks may therefore constitute and cause an international armed conflict when perpetrated by a State or its de jure or de facto agents – against another State or a non-international armed conflict (when committed by a State – or its de jure or de facto agents against another State when committed by an organized armed group fighting a State and its governmental authorities.

In both instances or when terrorist acts are committed during a pre-existing armed conflict, In Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field 1949, Article 51 states that "IHL prohibits the most common and typical acts of terrorism, even if committed for the most legitimate cause: attacks against civilians indiscriminate attacks, acts or threats whose main aim is to spread terror among the civilian population and acts of "terrorism" aimed against civilians in the power of the enemy. In most cases, such acts are considered war crimes that must be universally prosecuted"¹³

Nevertheless, there is no commonly agreed-upon definition of terrorism. Armed wars are the two primary difficulties blocking States from reaching an agreement on this subject. On the one hand, some countries want national liberation wars and resistance to foreign domination to be excluded from the definition which conflates, from an IHL perspective, Jus ad Bellum and Jus in Bello. Against the other side, it is proposed that the definition include not just assaults against people and indiscriminate acts, but also attacks on government agents and property to force the government to do or refrain from doing anything. Because this is the core of all combat, this would identify activities that are not banned by Humanitarian law in armed conflicts as "terrorists" and prosecute them, as a result, armed groups would be less likely to comply. Regular armed forces, national liberation movements, resistance movements, dissident armed forces involved in an internal armed conflict, or groups whose principal action consists

¹² United Nation, UN action against terrorism (2011).

¹³ Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field 1949, art 51.

of terrorist actions can be regarded as terrorist groups, as well as their opponents, are all covered by Humanitarian law. As a result, using armed force against terrorist groups is subject to the same regulations as any other armed conflict.

(D) The International Anti-Terrorist Crusade

Following the attacks of 11 September 2001 against New York and Washington D.C., perpetrated by members of the terrorist group al-Qaeda, the administration of President George W. Bush declared that the United States was engaged in a global "war on terror", an international armed conflict against a non-State actor (al-Qaeda) and its associates.¹⁴ That "war" comprised not only a military campaign against Afghanistan which harboured al-Qaeda leaders, but also attacks directed at and arrests of suspected members of al-Qaeda or other "terrorists" elsewhere in the world. While the United States claimed in this conflict all the prerogatives that IHL confers upon a party to an international armed conflict, in particular, to attack "unlawful enemy combatants" without necessarily trying to arrest them and to detain them without the benefit of a court decision, it denied these detainees protection by most of IHL, arguing that their detention was governed neither by the rules applying to combatants nor by those applicable to civilians.¹⁵

In the case of, *Hamdan v. Rumsfeld* the US Supreme Court held that every armed conflict which "does not involve a clash between nations" is not international, and that the latter phrase "bears its literal meaning"¹⁶. The words "war on terror" and "illegal combatants" have been dropped by the Obama administration. While its position was still being reviewed in 2010, it continued to argue that an armed conflict exists (and that IHL applies) between the United States and al-Qaeda, the Taliban, and "associated" forces on the one hand and the United States and al-Qaeda, the Taliban, and "associated" forces on the other. While it does not explicitly classify this "new type of armed conflict" as international or non-international, it holds that the IHL of international armed conflicts applies and that those who provide "substantial support" to the enemy can be attacked and detained under "the laws of war," much as adversary combatants may under international armed conflict law.

Proponents contend that a war between a State or a group of States on the one hand, and a non-State armed group such as al-Qaeda on the other, might be classified as a non-international armed conflict at most if the non-State armed group's standards for violence and organization

¹⁴ THE WHITE HOUSE, NATIONAL STRATEGY FOR COMBATING TERRORISM ARCHIVES.GOV (2006).

¹⁵ BELLINGER John, Legal Issues in the War on Terrorism – A Reply to Silja N. U. Vöneky, 8 GERMAN L J (2007), pp. 847-860; Reply of the Government of the United States of America to the Report of the Five UNCHR Special Rapporteurs on Detainees in Guantanamo Bay, Cuba (March 10, 2006)

¹⁶ *Hamdan v. Rumsfeld* (2006) 548 U.S. 557.

are met. They claim that the International Humanitarian Law of non-international armed conflicts does not have a global geographical scope of applicability. AL-Qaeda-related non-international violent conflicts may exist in Afghanistan and Pakistan, but not abroad. Even if and when the International Humanitarian Law of non-international armed conflicts applies, its principles on the legality of enemy fighter custody and attacks are not applicable geographical field of application. Al-Qaeda-related non-international violent conflicts may exist in Afghanistan and Pakistan, but not abroad. Even if and where the IHL of non-international armed conflicts applies, its criteria on the validity of enemy fighter imprisonment and attacks are not the same as those that apply to enemy combatants in international armed wars.

Individuals are protected by International Humanitarian Law (IHL) against the (traditionally hostile) State or other belligerent authority. International humanitarian law (IHL) of international armed conflicts, on the other hand, follows the conventional framework of international law in that it regulates often by the same laws interactions between States. Its treaty regulations are thus governed, with few exceptions, by the general norms of treaty law. Furthermore, it establishes standards of conduct for individuals (who must be punished if they break them) for the benefit of others.

III. PROTECTION OF VICTIMS OF WAR UNDER THE GENEVA CONVENTIONS

The Geneva Conventions of 1949, four international treaties ratified by practically every nation in the globe, are the most significant constitutional treaties in international humanitarian law. These conventions provide particular provisions to protect warriors who are injured, sick, or shipwrecked, as well as prisoners of war, civilians, medical staff, military chaplains, and military and civilian support employees. These humanitarian norms are further expanded by the Additional Protocols of 1977, which enhance the Geneva Conventions. Humanitarian law is based on the principles of humanity, impartiality, and neutrality. Its origins may be traced back to ancient ideas of justice like Babylon's Hamurabi code, the Byzantine Empire's Code of Justinian, and the US Civil War's Lieber Code. Henry Dunant, a 19th-century Swiss industrialist, is credited with the formulation of current international humanitarian law. He saw the aftermath of a deadly fight between French and Austrian soldiers in Solferino, Italy, in 1859. The withdrawing army left behind a battlefield filled with injured and dead soldiers. Thousands perished despite Dunant's gallant attempts to gather supplies for the soldiers. Dunant recommended in his book, *A Memory of Solferino*, that volunteer relief groups be given safety during wartime so that they might care for the injured.

In Geneva, in 1863, a body known as the Committee of Five later to become the International

Committee of the Red Cross was founded to act on Dunant's recommendations. Several months later, officials from 16 countries drafted a ten-article agreement with the help of representatives from military medical services and humanitarian organizations, specifying that ambulances and military hospitals are to be regarded as neutral and safeguarded during combat also the sign of a red cross on a white background will serve as a protective emblem to identify medical personnel, equipment, and facilities besides wounded or sick combatants will be gathered and cared for by either side in a war. This agreement of the Geneva Convention became the cornerstone of current international humanitarian law, which presently comprises four treaties and two protocols. They reflect the modern international community. Efforts to keep people safe during armed warfare. In 1949, an international conference of diplomats revised the previous treaties for protecting war victims, resulting in four new conventions with 429 articles of legislation. Almost every country in the world has signed these conventions, known as the Geneva Conventions of August 12, 1949. In all circumstances of declared war or any other armed confrontation between states, the Geneva Conventions apply. They also apply when a nation is occupied in part or entirely by forces from another country, even if there is no violent opposition to the occupation. Nations that have ratified the Geneva Conventions are bound by specific humanitarian norms and must prosecute individuals who break them. Ratifying nations must establish whatever legislation is required to ensure appropriate criminal penalties for anyone who commits or directs the commission of the Conventions' grave violations.

(A) The First Geneva Convention

The first convention is also known as The Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949. It protects soldiers who are hors de combat out of the battle.¹⁷ The original 1864 version of the Geneva Convention was expanded to 64 articles in the 1949 First Geneva Convention, which protects wounded and sick soldiers, medical personnel, facilities, and equipment, wounded and sick civilian support personnel accompanying the armed forces, military chaplains, and civilians who take up arms instantaneously to repel an invasion.

Article 9 of the Convention, like the others, affirms the ICRC's right to aid injured and sick people. National societies of the Red Cross and Red Crescent, as well as other recognized impartial relief groups and neutral governments, may give humanitarian help. Article 12 states

¹⁷ ICRC, TREATIES, STATES PARTIES, AND COMMENTARIES - GENEVA CONVENTION (I) ON WOUNDED AND SICK IN ARMED FORCES IN THE FIELD, 1949 - - INTRODUCTION - COMMENTARY OF 2016 ICRC.ORG (2016).

that people should be respected and safeguarded without regard to their gender, race, nationality, religion, political views, or other characteristics and that they should not be slaughtered, exterminated, or subjected to torture or biological experimentation. Simultaneously, Article 15 and 16 talks about receiving proper care and being protected from harm. All sides to war must look for and gather injured and sick people, particularly after battles, and report the information to the ICRC's central tracking agency.

(B) The Second Geneva Convention

August 12, 1949, the Geneva Convention for the Amelioration of the Condition of Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea adapted the First Geneva Convention's protection to reflect realities at sea. While onboard ship or at sea, it shields injured and ailing combatants. Its 63 articles cover Wounded, ill, or shipwrecked soldiers of the armed services, Civilians who accompany the armed troops and Hospital ships and medical staff. The combatants to a conflict must take all reasonable steps to locate, collect, and care for the injured, ill, and shipwrecked. Anyone who is adrift for whatever reason, including those forced to land at sea or parachute from aircraft, is referred to as "shipwrecked." Neutral vessels, such as commercial ships and yachts, can be enlisted to assist in the collection and care of the injured, sick, and shipwrecked. As long as they stay impartial, those who volunteer to assist cannot be caught. On battleships, religious, medical, and hospital staff must be respected and safeguarded. If captured, they are to be sent back to their side as soon as possible. Hospital ships may not be used for military purposes.

(C) The Third Geneva Convention

The Geneva Convention of August 12, 1949, Relating to the Treatment of Prisoners of War) POWs must be treated humanely, be decently housed, and receive adequate food, clothes, and medical treatment, according to the 143 provisions of the Convention. It also establishes labor, discipline, entertainment, and criminal trial guidelines for members of the armed forces may be held as prisoners of war. Civilians followed the armed troops, including volunteer militias and resistance organizations. The names of prisoners of war must be reported to the ICRC's central tracing agency as soon as possible. POWs will communicate with their relatives and get humanitarian aid. Prisoners of war must be safeguarded against acts of violence, insults, and public curiosity and must not be subjected to torture or medical experimentation. Captors shall not retaliate or discriminate based on race, nationality, religious views, political ideas, or any other factor. Because of their gender, female POWs must be handled with respect. Only their name, rank, date of birth, and military service number are required to be provided to their

captors. Pows must be kept in sanitary conditions and provided with food, clothes, and medical attention. Of the ICRC.

Pows would be able to communicate with their relatives and get humanitarian aid. Prisoners of war must be safeguarded against acts of violence, insults, and public curiosity and must not be subjected to torture or medical experimentation. Captors shall not retaliate or discriminate based on race, nationality, religious views, political ideas, or any other factor. Due to their gender, female pows must be handled with respect. Only their name, rank, date of birth, and military service number are required to be provided to their captors. Pows must be kept in sanitary conditions and get the food, clothes, and medical treatment they require to be healthy. They can't be kept in battle locations where they'll be shot at, and they can't be utilized to protect places from military activities. They might be forced to work in non-military employment under appropriate working conditions and for a fair wage. Prisoners are bound by their captors' laws and can be tried by their captor's courts.

Pows who are gravely ill must be repatriated (returned home). When the fight is over, all pows will be liberated and, if they so want, will be sent home as soon as possible. The International Committee of the Red Cross (ICRC) has been given special permission to carry out humanitarian work on behalf of prisoners of war. The International Committee of the Red Cross (ICRC) or other impartial humanitarian relief organizations authorized by conflict parties must be allowed to visit prisoners privately, inspect conditions of confinement to ensure that the Conventions' standards are being met, and distribute relief supplies.

(D) The Fourth Geneva Convention

The 159 articles of the Fourth Geneva Convention safeguard civilians in times of armed conflict and occupied territory. Specific Instructions: Civilians must be allowed to live regular lives if security permits. They are not to be deported or imprisoned unless necessary for security grounds. If internment is required, the circumstances should be at least as good as those for prisoners of war. Pillage, retaliation, indiscriminate property destruction, and hostage-taking are all illegal. Civilians' safety, honour, family rights, religious practices, demeanour, and customs must all be respected. Civilians must be safe from murder, torture, and cruelty, as well as discrimination based on race, nationality, religion, or political beliefs. They are not to be deported or subjected to collective punishment. This Convention addresses the care of children who have been orphaned or who have been separated from their relatives.

With the support of the Red Cross and Red Crescent organizations, the ICRC's central tracing agency is also permitted to relay family news and assist with family reunifications. Hospital

and safety zones for the injured, sick, and elderly, as well as children under the age of 15, expecting mothers, and mothers of children under the age of seven, may be formed. Civilian hospitals and their personnel must be safeguarded. Medical supplies and religious artefacts will be permitted to pass through. An occupying force cannot force civilians to conduct military-related jobs. They must be fairly compensated for any task they are assigned. Officials from the government will be able to continue working. Unless they pose a security hazard, the laws of the occupied area shall remain in effect. Occupying authorities are responsible for providing food and medical supplies to the people as needed, as well as maintaining medical and public health facilities. If this is not practicable, they must assist impartial humanitarian groups such as the International Committee of the Red Cross (ICRC) in facilitating assistance supplies.

(E) The 1977 Protocols Additional To The Geneva Conventions Of 1949

An international diplomatic conference enacted two Protocols supplemental to the Geneva Conventions in 1977 to provide better protection to victims of both international and internal armed conflicts. Over a hundred countries have signed one or both Protocols, and many more are considering them. All terms of the Geneva Conventions apply to any country that has ratified the Conventions but not the Protocols. Protocol I (102 Articles) strengthens protections for civilians, military personnel, and civilian medical personnel in international armed situations. It outlaws' indiscriminate assaults against human populations, as well as the destruction of food, water, and other essential supplies. Dams, dikes, and nuclear power plants, as well as cultural assets and places of worship, are off-limits. Women, children, and civilian medical staff are given special protections, while journalists are given certain safeguards. It is illegal to enlist minors under the age of 15 in the military. When members of dissident forces are under the direction of a central authority, it contains rules that provide them combatant and prisoner of war status.

Such combatants are unable to hide their loyalty; they must be identifiable as combatants when preparing for or participating in an attack. Weapons that cause needless pain or suffering, as well as combat methods that produce widespread, long-term, and severe damage to the natural environment, are forbidden. Using one of the Geneva Conventions-recognized protection symbols to deceive hostile forces or engage in other acts of treachery is a war crime. The International Committee of the Red Cross (ICRC), national societies, and other impartial humanitarian groups approved by warring parties must be allowed to give help. Protocol II (28 Articles) explains how victims of high-intensity domestic conflicts, such as civil wars, are protected. Internal disturbances such as riots, protests, and sporadic acts of violence are not included.

Protocol II supplements and enhances the non-international safeguards included in Article 3 of the 1949 Geneva Conventions. It states that those who do not directly participate in hostilities or who have stopped participating in hostilities are entitled to respect. They must be treated decently in all situations.

Protocol II expressly outlaws aggression against people's lives, health, or physical or mental well-being. It specifically bans acts of murder and cruelty. Terrorism, hostage-taking, enslavement, affront to personal dignity, collective punishment, and looting are all examples of human rights violations. These safeguards are regarded as essential rights for all people. When feasible, children should be transported to safe regions and reunited with their families. During internal conflicts, those who are interned or incarcerated are guaranteed to receive the same humane treatment as those who are held under the Geneva Conventions. It improves medical and religious personnel's protection as well as that of the injured, ill, and shipwrecked. Civilians and "items necessary to civilian existence," such as crops, irrigation systems, or drinking water supplies, cultural objects, and places of worship, are prohibited from being attacked. Humanitarian assistance groups such as the International Committee of the Red Cross (ICRC) must be allowed to continue their work.

(F) Protective Emblems Under International Humanitarian Law

The Geneva Convention of 1864 anticipated the need for a universal emblem of protection that could be recognized on the battlefield. The sign of a red cross on a white background (the reverse of the Swiss flag) was identified as a protective emblem in war regions in honour of the initiative's genesis. Nations later approved the red crescent, red lion, and sun symbols as supplementary humanitarian aid insignia during a diplomatic convention in 1929. Only the red crescent is now in use among the various symbols. Although not recognized by the Geneva Conventions, Israel's crimson shield of David is a valued symbol.

Medical and relief personnel, military and civilian medical institutions, mobile units, and hospital ships all wear these symbols to identify and protect themselves. They're also used to identify Red Cross and Red Crescent national societies, as well as the Magen David Adam (Red Shield of David) humanitarian group in Israel, and its programmes and operations. It is critical to have a broad awareness and acceptance of these humanitarian symbols to save lives and relieve suffering

IV. CONCLUSION

According to international humanitarian law, only armed conflicts and are covered. Armed conflict occurs when states employ armed force against one another, or when state authorities

and organized military groups or other organizations inside a state engage in long-term armed combat. International humanitarian law applies from the beginning of such armed conflicts and continues after hostilities have stopped until a worldwide peace accord is reached, or a peace settlement is established with domestic conflicts. International humanitarian law (IHL) applies in two kinds of armed conflicts: international and non-international. These are known as "armed confrontations of a non-international nature" in technical terminology. Every military conflict that "does not include a collision between states" is not international, some argue, although it is not undisputed, and the latter statement "bears its literal meaning." As a result, all armed conflicts are classed as either international or non-international, with the two categories separated by the parties engaged rather than the conflict's geographic scope. Humans are protected by International Humanitarian Law (IHL) against the usually hostile State or other belligerent power. International humanitarian law (IHL) of international armed conflicts adheres to the traditional framework of international law because it governs relations between states using the same rules. With a few exceptions, the general standards of treaty law regulate its treaty regulations. For the benefit of others, it defines norms of behavior for individuals who must be penalized if they violate them.

The Geneva Conventions of 1949 are by far the most important constitutional accords in international humanitarian law, consisting of four international treaties approved by almost every country across the globe. These conventions include measures to safeguard wounded, sick, or shipwrecked soldiers, as well as civilians, medical personnel, military chaplains, and military and civilian support personnel. The Additional Protocols of 1977, which supplement the Geneva Conventions, substantially broaden these humanitarian standards. The values of humanity, impartiality, and neutrality underpin humanitarian law.

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